112

Stanford University Library
NOV 2 1906

RECONSTRUCTION IN NORTH CAROLINA

BY J. G. de ROULHAC HAMILTON
Columbia

3781
C72H
Unclassed Thesis

STANFORD UNIVERSITY LIBRARIES
WITHDRAWN

RECONSTRUCTION IN NORTH CAROLINA

By

J. G. de ROULHAC HAMILTON, M. A.

Late Scholar in Columbia University

Submitted in partial fulfilment of the requirements for the degree of Doctor of Philosophy, in the Faculty of Political Science, Columbia University

---

PRESSES OF EDWARDS & BROUGHTON
RALEIGH, N. C.

UNIVERSITY

140923

Copyright, 1906, by
J. G. de Roulhac Hamilton.

LIBRARY
LELAND STANFORD JUNIOR
UNIVERSITY

CONTENTS.

CHAPTER I.

Secession and War in North Carolina.

PAGE.

1. Disunion Sentiment Prior to 1860 3
2. The Campaign of 1860 11
3. The Secession Movement 14
4. Secession and War 27
5. War Politics and the Peace Movement 37
6. Financial and Economic Conditions in War 66

CHAPTER II.

The Beginnings of Reconstruction During the War.

1. The Hatteras Convention and Government 78
2. The Administration of Edward Stanly 84
3. The Downfall of the State Government 90

CHAPTER III.

Presidential Reconstruction.

1. The Provisional Government 99
2. The Convention of 1865 111
3. The Campaign and Election of 1865 122
4. The Return to Civil Government 130

CHAPTER IV.

Political and Social Conditions Under the Restored Government.

1. The Freedmen 136
2. Conflict of the Civil and Military Powers 144
3. State Politics in 1866 156
4. Economic and Financial Problems 176
5. Transportation and the Mails 184

CHAPTER V.

MILITARY GOVERNMENT UNDER THE RECONSTRUCTION ACTS.

PAGE.
1. The Reconstruction Acts 189
2. Military Government Under General Sickles 201
3. Military Government Under General Canby 212
4. State Politics and Election of 1867 218

CHAPTER VI.

THE CONVENTION OF 1868 AND ITS WORK.

1. The Convention of 1868 229
2. Constitutional Changes 247
3. Politics and Election of 1868 252
4. The Completion of Reconstruction 260

RECONSTRUCTION IN NORTH CAROLINA.

CHAPTER I.

Secession and War in North Carolina.

1. *Disunion Sentiment in the State prior to 1860.*

North Carolina after November 21, 1789, the day on which she adopted the Constitution of the United States, was, while closely allied by association, blood, and interest with the Southern States, strongly attached to the Union. Stirred at times by sectional feeling, acting always in the interest of the slave States, when the sectional issue was drawn, the deep love for the Union in all classes of the people prevented any great spread of disunion sentiment until long after most of the Southern States looked upon secession as by no means a remote possibility.

When nullification was proposed in South Carolina it was repudiated utterly in North Carolina. Anti-nullification meetings were held in almost every county in the State, and resolutions passed, denouncing nullification and the tariff in the same terms, and professing attachment to the Union. In the General Assembly of 1830 Jonathan Worth, the member from Randolph, introduced into the House resolutions declaring that, while the tariff laws were unequal and unjust, the right of nullification was not recognized by that body. They provoked a sharp debate, but were adopted by a large majority.[1] The legislature of 1832, by large majorities in each house, passed resolutions proclaiming the unalterable attachment of the State to the Federal Union, and declaring the theory of nullification subversive of the Constitution and tending to a dissolution of the Union.[2]

[1] House Journal, Dec. 31, 1830.

[2] Resolutions, 1832, p. 1; Journals, Dec. 25, 1832, and Jan. 7, 1833.

The fact that slavery was less profitable here than in the states farther south may have accounted in some measure for the absence of disunion feeling. With North Carolina, as with Virginia and Tennessee, slavery was not of first economic importance. The large slaveholders formed a comparatively small part of her white population. The non-slaveholders, on the other hand, formed a large class. Moreover, by 1860, there were in the State 30,000 free negroes.[3] Until 1835, this latter class was endowed with the franchise under the same conditions as the white citizens. The amendment to the constitution which deprived free blacks of the right to vote passed the convention of 1835 by only a small majority,[4] and was sharply criticised in that body and by the people. It was strongly opposed by Judge Gaston, ex-Governor Swain and other leaders of the convention. They were, however, willing that certain qualifications should be required. But for the excitement caused by the recent Southampton trouble in Virginia, it is hardly probable that the privileges of the free negroes would have been limited at all at that time.

But the great bond which held North Carolina to the Union was the Whig party. In its ranks were men of all classes and from its ranks came the leaders of political thought in the State from the time of the foundation of the party. Men of political wisdom, of strength, depth and patriotism guided the party, and through it, controlled the State. But the tendency of the party was conservative, and conservatism finally lost its hold on the people. In 1850, largely through the influence of William W. Holden, the editor of the *Standard,* the Democratic organ, the Whig party was defeated and a new class of men assumed control—men of apparently equal ability, but of less depth, of equal patriotism, but in a narrower sense, all of high character, but politicians, in the main, instead of statesmen.

[3] Census of 1860.

[4] Journal of the Convention of 1835, p. 74.

The decisive battle was fought on the ever-popular issue of abolition of privilege. The Democrats proposed free or manhood suffrage, and the conservative Whigs, while at heart opposed to the change, dared not show very active opposition. Under the existing constitution, a freehold qualification of fifty acres of land was necessary for voting for State Senators. This put power in the hands of the landed class and was consequently opposed by the masses. Through its unpopularity, David S. Reid was elected governor, on the issue of its abolition. This was the first Democratic victory since 1834.

The credit for the victory may be given largely to Mr. Holden. He chose the issue and directed the campaign. This man, at that time a power in the State and destined to be a prominent figure in the history of the State for the two following decades, was born in Orange county in 1818. His early education was received as assistant in the office of the Hillsboro *Recorder.* From its editor, Dennis Heartt, he derived his politics and was an enthusiastic Whig. In 1837, he went to Raleigh, where he studied law and was admitted to the bar. He also became an associate on the *Star,* a Whig paper edited by Thomas Loring. His ability was soon recognized, and in 1843, through the influence of James B. Shepherd, he was offered the editorship of the *Standard,* a Democratic paper formerly edited by Philo White. He at once accepted, making the first of his numerous political changes of heart. While self-interest undoubtedly led, in great part, to his change of party, all his ideas were in accord with the doctrines which he now adopted. His paper speedily became the most ably edited in the State and his influence grew accordingly.

He was an intense admirer of Calhoun and endorsed his theories repeatedly and vehemently.[5] In the decade from 1850

[5] A poet of some ability, so far as can be judged from his few attempts in that kind of literature; his best effort was a poem written at the death of the great South Carolinian.

to 1860, Mr. Holden was the strongest as well as the ablest advocate in North Carolina of the right of secession, being far in advance of his party in the State, and in full sympathy with the secession party in South Carolina.

In 1850, he took advanced ground on the subject, although the occasion for action, in his opinion, had not arisen.[6] Governor Reid's message to the legislature in January, 1851, contained, also, a decided threat. But the legislature was not in accord with them on this point. The question was discussed as a purely abstract one, and resolutions extremely conservative in tone were adopted, while the series presented as a minority report by the committee, which declared the right existent, were rejected.[7] The question appeared again in the campaign of 1851. Alfred Dockery was a Whig candidate for Congress in a district composed largely of counties on the South Carolina line, and made his campaign on the question of secession, stating as his position, that if South Carolina should secede he would vote men and money "to whip her back into the Union," and would do the same if his own State were in question.[8] He was elected with a majority of over a thousand votes. His

[6] The following is part of one of his editorials at the time: "We have heard the idea recently expressed that a State has no right to secede from the Union—that there is no help from oppression except by revolution; in other words, that the States are the creatures and dependents of the Federal Government and, of course, subject to its physical coercion. Such an assumption, we humbly submit, is unsupported by any testimony derived from the Constitution itself or from any single circumstance attending its foundation or adoption. It is, moreover, at war with all regular ideas of free republican government and the undoubted independence of the States, as that independence has been displayed in their separate organizations since 1787. We hold that as no State could originally have been forced into the Union, none can be forced in or rather prevented from going out."—Standard, Dec. 4, 1850.

[7] Legislative Docs., 1850-1, Vol. 2, pp. 246, 261.

[8] Standard, July 2, 1851.

district was usually a strongly contested one, the Whigs and Democrats being about equal in number. Edward Stanly, expressing the same sentiments, was elected in an eastern district in the same year.[9] The *Standard,* although the organ of the Democratic party, was, as thus appears, far in advance of party sentiment, or at least, more outspoken. In this same campaign it said, "It is sufficient for us to say that whenever the Constitution is palpably violated by Congress * * * or whenever that body fails to carry out the plain provisions of that instrument when required to protect Southern rights, the Union is dissolved, and that by a sectional majority." [10]

Much the same sentiments were expressed during the presidential campaign of 1856. Just before the election, a meeting of the Southern governers was called at Raleigh for deliberation as to the course to be pursued in the event of Fremont's election. Only Governor Wise, of Virginia, and Governor Adams, of South Carolina, came, and consequently the meeting was unimportant. An informal consultation was held at the Governor's Mansion, and several prominent men of Raleigh were invited to be present, including W. W. Holden, M. A. Bledsoe and L. O'B. Branch. This may be said to have been the first secession meeting held in the State. But Governor Bragg's position was most conservative and in sharp contrast to that assumed by Governor Wise. The outcome of the election prevented any direct result of the meeting.

Mr. Holden had been an earnest and faithful worker for his party for many years and had been rewarded by no office of importance. He was intensely ambitious and desired a more definite reward than his influence, although that gave him power even, politically speaking, "to kill and make alive." Feeling that he deserved it, in 1858, he was a candidate before his party for the nomination for governor. In spite of a determined secret opposition to him, a majority of the delegates were

[9] Standard, Aug. 20, 1851. [10] Ibid., Jan. 15, 1851.

instructed for him. When the convention met in Charlotte, one delegate, holding a large number of proxies, although instructed for him, voted for his opponent, Judge John W. Ellis, of Rowan, who was nominated. Mr. Holden's humble origin, and, to a lesser extent, his agrarian tendencies were responsible for his defeat. He acquiesced in the result, but with ill-concealed bitterness. With justice, he felt wronged, but visited his anger upon his innocent opponent, whom he accused of using "means that would be considered unfair by a New York politician."[11] At this point began a change of sentiment in Mr. Holden which divided him from his party. This was hastened by the failure of the legislature to elect him to the United States Senate at their next session.

The State as a whole was comparatively free from discussion of secession during most of the decade, and when the subject was mentioned, it was generally only as an abstract question. But two events were to bring a change. In 1857, Hinton Rowan Helper, a native of North Carolina, published *The Impending Crisis*. Its attacks upon slavery aroused a storm of denunciation throughout the State and the whole South. To own a copy of the book amounted almost to political death and threatened social ostracism. The other event, it is needless to say, was John Brown's raid. This stirred the State deeply. Secessionists had now a forcible argument to prove the designs of the Northern people, and the secession movement may here be said to begin. Sympathy with Virginia was expressed in many ways. Military organizations from every part of the State tendered their services, but Governor Wise refused all.[12]

In December, the Council of State met and passed resolutions approving the course pursued by Governor Wise, extending sympathy to Virginia, and assuring him of the support of North Carolina in all efforts to maintain the vital interests of the slaveholding States, which could never be surrendered

[11] Standard, Nov. 24, 1860. [12] Ibid., Nov. 23, 1859.

without dishonor. President Buchanan was thanked for his prompt aid. The following resolutions containing a decided threat were also passed:

"That the union of the States can only be perpetuated so long as it continues to be a union of equals.

"We are devoted to it and would behold its dissolution with profound regret; yet, if we cannot hold our slave property, and at the same time enjoy repose and tranquility in the Union, we will be constrained, in justice to ourselves and to our posterity, to establish new forms and to establish new guards for our security and well being; relying for success in so doing in the righteousness of our cause and on the support of that Providence who so signally guided and secured our ancestors in times of danger.

"That, while declaring our sincere devotion to the Union according to the Constitution as it was established by our forefathers, and while we are ready to uphold and maintain it as a Union of equals, we are not unmindful of the fact that the disturbers of our peace have received and are receiving the active sympathy and the substantial support of large portions of the people of the non-slaveholding States; and that it behooves the people of the non-slaveholding States, if they would restore domestic tranquility and perpetuate the Union, to rouse themselves from the condition of indifference and lethargy which seems to prevail among them, and to take such action and adopt such measures as may be necessary to prevent a continuance of assaults upon the people of the South, and may assure our people that they are still faithful as Confederate States to the common Union which still unites us."

The governor was advised to encourage the organization of volunteer military companies and to apply to the President for arms, to take measures to prevent the distribution through the mails of incendiary matter from the North, and to require justices of the peace to subject canvassers from the North to a severe scrutiny and to require bond for good behavior when it was thought necessary.[13]

[13] Council of State Records, 1859; Standard, Dec. 10, 1859.

The press of the State was equally outspoken regarding the possible and even probable consequences of the attack upon a Southern State, which was considered an attack upon the entire South. Even the *Register,* the intensely conservative organ of the Whig party, began to advocate the industrial independence of the South with a view to possible political independence.[14] As usual, the *Standard* was the most extreme. It said, "After Seward's Rochester speech, after the Harper's Ferry outrage and after Helper's book, endorsed as it is by the leaders of Black Republicanism, the people of the South will not submit to Black Republican rule. They will sunder the bonds in 1860, in 1864, in 1868, or in 1872, before they will do it. We mean precisely what we say, and ninety-nine hundredths of those who may read this article agree with us." [15]

Meetings were held at various places in the State and resolutions passed, all breathing the same spirit of defiance to the North. One of these meetings, held in Chatham county, sent a committee to request Governor Ellis to call a special session of the legislature to place the State in an attitude of full military defence. Governor Ellis declined, however, with the statement that there was no necessity for any such action.[16] Requests for arms for new military organizations kept pouring in and Governor Ellis applied twice to the Secretary of War to furnish them. Secretary Floyd responded that North Carolina already had her quota and, if the ten thousand rifles desired were furnished, it would be an advance of six years, and this he declined to make.[17]

All the winter following, the State was kept in a condition of excitement and unrest by numerous arrests and trials of persons for peddling abolition tracts and books, and for preaching abolitionist sentiments to the negroes. Several were tarred and feathered instead of being delivered into the hands of the law. The most noted trial of an abolitionist was that

[14] Nov. 30, and Dec. 21, 1859.
[15] Dec. 14, 1859.
[16] Standard, Jan. 18, 1860.
[17] Register, Jan. 11, 1860.

of the Rev. Daniel Worth, in Guilford county. He was a native of North Carolina, of Quaker origin, who had lived for many years in Indiana and had become a monomaniac on the subject of slavery. He was sentenced to be whipped, and appealed to the Supreme Court. While his appeal was pending he escaped to New York and did not return.[18]

In one year secession sentiment had grown more than in all the preceding ones, and a secession party, small but active, had come into existence.

2. *The Campaign of 1860.*

The State Democratic convention met in Raleigh in March and unanimously re-nominated Governor Ellis. The platform protested against the alteration of any national compromise and announced that interference with the constitutional rights of the States would not be tolerated. But, on the whole, the sentiment of the delegates, as expressed in the platform and in the speeches in the convention, was conservative and entirely favorable to the Union.[19]

The opposition party had already nominated John Pool on a platform demanding the *ad valorem* taxation of slave property. He was hardly the candidate that would have been expected, as he had voted against *ad valorem* taxation in the preceding legislature; but his personal position was no more surprising than that of his supporters, for a party made up of old Whigs would hardly have been expected to advocate *ad valorem* taxation. The platform laid the blame for all the national troubles on the Democracy, and, with more than usual vigor, declared its doctrines dangerous and its success a menace to the welfare of the nation.[20]

[18] Worth Letters (unpublished). When asked why as a minister he did not obey the law, he said, "I have no respect for North Carolina laws, for they are enacted by adulterers, drunkards, and gamblers."—Standard, Dec. 21, 1859.

[19] Standard, March 14, 1860. [20] Register, Feb. 30, 1860.

A vigorous campaign opened at once conducted largely, at first, on internal matters. In the discussion of these the advantage was clearly with Mr. Pool, but national questions soon interfered in behalf of Governor Ellis.

When the Democratic National Convention met in Charleston, nineteen delegates were present from North Carolina. Prominent among these were W. W. Avery, who was chairman of the committee on resolutions, W. W. Holden, W. S. Ashe and Bedford Brown. The details of the convention are familiar. When the minority report of the committee on resolutions was substituted for that of the majority, W. S. Ashe addressed the convention, saying, that if the platform was forced upon the South he would be forced to withdraw. Bedford Brown also spoke, warning the convention that if the second resolution was adopted, the fate of the Democratic party was sealed.[21] But when the withdrawal of the Southern delegates took place, those from North Carolina refused to go. It is not doubtful that, if they had wavered, the delegations from Virginia, Tennessee, Maryland and Kentucky would have also withdrawn.[22]

When the balloting began for the presidential nomination, North Carolina voted as a unit thirteen times for R. M. T. Hunter, twelve times for Lane and six times for D. S. Dickinson. Then, until the balloting ceased, her vote was cast for Lane and Douglas, the latter receiving one vote.[23] The press of the State and the people in general approved the action of the delegates. In only one instance were they criticised for not withdrawing with the other Southern delegates.[24]

Mr. Holden returned from Charleston with a changed view of secession. What policy he would pursue, however, seemed

[21] Charleston Mercury, quoted in Standard, May 9, 1860.

[22] Standard, May 16, 1860.

[23] Ibid., May 9, 1860. R. P. Dick voted for Douglas.

[24] The Charlotte Bulletin claimed that they should have gone with the Cotton States.

doubtful. Still bitter against the Republicans, he announced in the first issue of his paper, after his return, that he was "for the Constitution and the Union, and against all who would trample on the one or dissolve the other." [25] But a month later, he again declared that secession should follow the election of a Republican President.[26]

When the Baltimore convention met all the delegation from North Carolina withdrew except R. P. Dick, W. W. Holden and J. W. B. Watson. The two last-named refused to vote, but Mr. Dick voted for Douglas. For some time Mr. Holden was doubtful as to whom he would support, but finally announced that he would favor the Breckenridge ticket, with the understanding that the electors would vote for Douglas, if by doing so they could defeat Lincoln. R. P. Dick, however, called a meeting of those favoring Douglas, and a full electoral ticket was chosen. Mr. Douglas was present and addressed the meeting. But the Douglas ticket played no part in the campaign and received less than three thousand votes. The contest was between Breckenridge and Bell and resulted in a

[25] May 9, 1860.

[26] The editorial is in part as follows: "But it is said that the Supreme Court may be in the future an unsafe tribunal for the South; that the Black Republicans will obtain control of it and turn its decisions against the slaveholding States. That may be so. At present it is certainly a safe tribunal for the South. It may be changed and no doubt will be, if the Black Republicans should obtain possession of the government. But what of that? Must we wait until this change is made? Shall we permit Lincoln to pervert the whole power of the Government, and in addition to turn the Supreme Court against us? We are for meeting the enemy at the threshold—for vanquishing him or being vanquished long before his law, his adjudications against us are made. If the people of the South are true to themselves they will never be troubled by the decisions of Black Republican judges. But if they submit to the inauguration and rule of Black Republicans, they will bind themselves to submit to the decisions of an abolition court."—Standard, June 2, 1860.

victory for the former in spite of the vigorous campaign made by the Whigs. The Democratic State ticket was elected by a majority of over six thousand votes.[27] In the General Assembly the Democrats had a working majority in both houses.

3. *The Secession Movement.*

The result of the election had scarcely been announced when the question of secession became the leading topic of the time. The election of Lincoln was not regarded in North Carolina as a sufficient cause of withdrawal from the Union, but the action of the other Southern States forced a consideration of the matter. During the campaign little had been said on the subject. No public speaker had advocated secession and many had denied the existence of the right.[28] But the secession party was only quiet for a time. A large secession meeting in Wilmington on November 19th inaugurated a campaign conducted by means of similar meetings.[29] By the first of January secession meetings had been held in more than thirty counties, and this number was more than doubled by the following April. In opposition to these, Union meetings were held in fewer counties, it is true, but in greater number.[30]

The battle commenced when the General Assembly met. All the members seemed conscious of the gravity of the situation and the importance of the work ahead of them.[31] The element favorable to secession were well organized, and this fact later prevented some of the Union men from voting with them on the question of a convention. The body, as a whole, was able and conservative, but still there was a tendency on the part

[27] The total vote cast was 112,586.

[28] Letter from Gov. Ellis to Gov. Gist, Oct. 19, 1860.

[29] Wilmington Journal, Nov. 20, 1860.

[30] An example of intense Union sentiment was in Rowan County, where nine large Union meetings were held during December and January.

[31] Memoir of A. S. Merrimon, p. 61.

of some of the Union men to be factious, and some of the secessionists were illiberal.

The governor's message was a clear statement of the conditions which the legislature had to face. He suggested an invitation to the Southern States to hold a conference through delegates, the calling of a convention of the people, and a thorough re-organization of the militia. It was evident from the tone of the message that Governor Ellis himself had little hope of a peaceful settlement of the sectional differences.

A joint committee on Federal Relations was appointed and reported early in December, recommending that a convention limited in power should be called. A minority report dissented both in regard to the possibility of a limited convention and the necessity for calling one at that time. Bills providing for calling a convention had already been introduced, but the bill reported by the committee was substituted for them. The debate which now followed was long and heated. Discussion was not confined to the legislature. The question was argued all over the State, and the press entered into the discussion in even a more vigorous way than the legislature. At this time its sentiment was overwhelmingly for the Union.[32] The course of events, however, was having an effect upon it as well as upon the people and the legislature. When a convention was first proposed it seemed very doubtful if one could be called. But, as time passed, the idea grew in favor. Many of the strongest advocates of the Union commenced to favor it, trusting that the Union sentiment in the State would keep the secessionists from obtaining control of it.[33] The secession element was increased by the influence of the secession of the various Cotton States and the appearance in Raleigh of repre-

[32] At this time only the Charlotte Bulletin, Goldsboro Rough Notes, Wilmington Journal, and the Raleigh State Journal favored secession.

[33] A letter from Z. B. Vance, dated Jan. 9, 1861, shows this feeling. He felt that better terms could be obtained if the State were in convention.

sentatives from several of them. Jacob Thompson, of Mississippi, and I. W. Garrott and R. H. Smith, of Alabama, were received by the legislature as commissioners from their States. All were natives of North Carolina. The members of Congress from the State also took part in the discussion. The address of the Southern members of Congress was signed by Ruffin and Craige. The two Senators and four of the representatives wrote requesting the legislature to call a convention, and it was known that two others favored it.[34]

Another thing added to the excitement and uneasiness of the people. There were at this time four United States army posts in the State—the Fayetteville Arsenal and Forts Johnston, Caswell and Macon. At the request of the mayor and citizens of Fayetteville, who feared an insurrection, and against the advice of the officer in command, troops had been sent there early in November.[35] At each of the other posts an ordnance sergeant was in charge. Early in January a committee from Wilmington visited Governor Ellis and begged him to seize Forts Johnston and Caswell. He refused to entertain the proposition, and on the morning of the 10th Fort Johnston was captured by citizens of Wilmington, organized as a Committee of Safety under the name of "Cape Fear Minute Men" and under the command of John J. Hedrick. That afternoon, accompanied by S. D. Thruston, captain of the "Smithville Guards," and a number of citizens of Smithville, they captured Fort Caswell. This latter was a most important fort, as it commanded the mouth of the Cape Fear river. The next day, Governor Ellis, hearing unofficially of the seizure, telegraphed Warren Winslow in Washington to ascertain if the administration intended to garrison the forts in North Carolina.[36] He also sent orders to Thruston to evacuate the forts at once. The order was complied with and the two forts were restored

[34] Senators Bragg and Clingman, Representatives Branch, Craige, Winslow, and Ruffin. Vance and Smith were known to favor it.

[35] Off. Rec. No. 1, pp. 480-4.

[36] North Carolina Regimental History, Vol. I, p. 26.

to the officers in charge. Governor Ellis was of the opinion that the seizure had been made by the militia under orders. Later information showed the error of this. He at once reported the matter to the President and asked if the forts were to be garrisoned. Secretary Holt replied thanking him for his prompt action, and declaring that there was, at that time, no intention of placing garrisons in the forts as they were considered entirely safe in "law-abiding" North Carolina; but that, if a disposition was shown to attack them, they would be protected.[37]

These events all had their effect, and January 30th both houses of the General Assembly agreed upon a bill providing for submitting to the people the question of a convention, limited in its powers to Federal relations, and for the election of delegates at the same time. If called, no action of the convention was to become valid until ratified by the people. The bill was most strongly supported by W. W. Avery and V. C. Barringer in the Senate, and Samuel Person in the House, while the opposition was led by Bedford Brown and R. S. Donnell in the Senate and House, respectively. In the Senate, Jonathan Worth, Alfred Dockery, Josiah Turner, L. Q. Sharpe and David Outlaw contested every step made by the secessionists and gave them infinite trouble. But the movement was gaining a headway which rendered ineffectual all opposition.[38] The legislature, after passing the convention bill, went further. An appropriation of $300,000 was made to purchase arms, and a military commission was chosen to advise the gov-

[37] Off. Rec., No. 1, pp. 484-5.

[38] Gov. Ellis, in a private letter to I. W. Garrott, of Alabama, said that North Carolina would much sooner join an organized government than secede without one being already formed, but that the State could take no part in its organization. "But," said he, "rely upon it, the Southern Rights men in North Carolina will never desert you. We have submissionists here; but the great heart of the people is right. You may count on us, for we will be with you soon."

ernor on the subject.[39] A new militia law was passed, making all white males between eighteen and forty-five years of age liable to service. A volunteer corps of ten thousand men was provided for, and the governor was authorized to enroll twenty thousand more to serve, in case of invasion, at the pleasure of the commander-in-chief.[40] Commissioners were elected to represent the State near the Confederate Government and at the Peace Conference in Washington. On the former commission were ex-Governor David L. Swain, the president of the State University, M. W. Ransom and John L. Bridgers, while ex-Chief Justice Thomas Ruffin, ex-Governor David S. Reid, ex-Governor John M. Morehead, D. M. Barringer and George Davis composed the latter. In both Union men were in the majority.

The commissioners to Montgomery attended the sessions of the Confederate Congress, but declined to take any part in their deliberations. The delegation to Washington, soon after the Peace Conference met, came to the conclusion that there was no hope of peace. Barringer, Reid and Davis voted against the Franklin proposition with the exception of the third and fourth sections. Ruffin and Morehead, while not satisfied, were unwilling to reject anything that might prevent the war on honorable terms, and voted for the entire proposition. This recommended a number of amendments to the Constitution, the substance of which was as follows: By the first, slavery was to be prohibited in the territories north of latitude 36 degrees 30 minutes. South of that line the institution was to remain as it was at the time, and no law could be passed abridging the right of a citizen to take a slave thither. The status of new States was to be determined by their constitutions. The second

[39] D. H. Hill and C. C. Tew, the superintendents of the two military schools in the State, were appointed commissioners. Laws, 1860-1, chap. 27.

[40] Laws, 1860-1, chap. 24.

provided that no further acquisition of territory should be made without the consent of a majority of the Senators from both the free States and the slave States. The third declared that no amendment to the Constitution should be made interfering with slavery in the States, nor should Congress prohibit it in the District of Columbia, nor interfere with the domestic slave trade between slave States, nor tax slaves at a higher rate than land. The slave trade in the District of Columbia was abolished, but Congress was prohibited from assuming any power to prevent slaves from being taken into the District and then brought away. The fourth provided that the Constitution should not be so construed as to prevent any of the States from aiding in the arrest and delivery of fugitive slaves. The fifth prohibited forever the foreign slave trade. The sixth provided that the amendments to the Constitution so proposed should not be abolished or changed without the consent of all the States. Finally the seventh provided for payment by the United States for all slaves released by violence from Federal officials, or whose re-capture should be prevented by violence. All these amendments were included in one proposed article. It was adopted with nothing like unanimity among the delegates to the conference and was doomed to failure before it ever reached Congress.

Up to the meeting of the Peace Conference there had been great hopes in the State that by it all the vexing questions between the sections would be settled and peace restored.[41] But the hope was all in vain.[42] On their return to North Carolina the commissioners announced that all hope of peace was gone. Judge Ruffin, who had gone to the conference as a violent

[41] Report of S. Hall to Georgia Convention. Journal, p. 330. Mr. Hall said that the great obstacle "to the immediate co-operation of North Carolina with the Confederate States is the belief entertained by a large number of citizens that the Peace Conference will compose the dissensions between the sections."

[42] The voting in the conference was by States and consequently the vote of the majority of any delegation prevailed for the vote of its State.

Union man, made a speech in Hillsboro consisting of only three words, "Fight! Fight! Fight!". Nothing illustrates more clearly the change of sentiment which was taking place. The same thing is noticeable in the newspapers. With the exception of the *Standard,* all began to advise military preparations. This was defended by all of them as a necessity. One of them said, "The extremists of both sides have left nothing for us but secession." [43] And gradually most of them began to advocate what they had so persistently fought.

The vote on the question of a convention and the election of delegates were held February 28th. The issue of the campaign had been made "Union or Disunion," and notwithstanding the fact that many of the leaders of the Union party desired a convention as the best means of settlement, and that the act providing for it had only been passed through their support, the call was defeated. The people still hoped for peace and were afraid of a convention. The majority against it was small—651 votes out of a total of 93,995—but a majority of the delegates chosen were Union men. Representatives of three views as to the course to be pursued were found among the delegates. There were 52 "submissionists," as the secessionists called them, 22 "conditional submissionists" and 46 "Southern Rights" men.

The strongest advocate of the Union could not think that this was a final decision of the question. It was only a gain in time, a success for those advocating a "Watch and Wait" policy,[44] and it gave them only a momentary advantage. The secession party had the advantage of being coherent, in marked contrast to their opponents, and were more enthusiastic in their cause. In the East, beginning in Wilmington, a strong and united movement now commenced. "States Rights" meetings were held in various places and delegates chosen to a State meeting to be held in Goldsboro in March. This move-

[43] New Bern Progress, Jan. 18, 1861.

[44] This was the watchword of the Standard.

ment spread to other parts of the State, and when the meeting was held on the 22nd about a thousand persons were present, representing twenty-five counties. Weldon N. Edwards, of Warren, was called to the chair. Formal organization of a party resulted and plans were made for a campaign extending all over the State. Franklin J. Moses, of South Carolina, who had been appointed by his State as a commissioner to the defeated convention, was present and addressed the meeting. Edmund Ruffin, of Virginia, came over from Charleston to attend, and made a vigorous secession speech. Determination and energy marked the whole meeting. After providing for another meeting in Charlotte on May 20th, they adjourned, confident of success.[45] Later events rendered the adjourned meeting unnecessary and the call was withdrawn. A vigorous campaign was carried on for the next three weeks, and apparently with results.

Then the agony of doubt ended. Sumter fell and the President's call for troops followed. Governor Ellis was notified by the Secretary of War that a call had been made on him for two regiments for immediate service. The Governor at once replied:

"RALEIGH, April 15.

"To the Secretary of War:

"Your dispatch is received, and if genuine (which its extraordinary character leads me to doubt,) I have to say in reply that I regard a levy of troops for the purpose of subjugating the States of the South, as in violation of the Constitution and a usurpation of power.

"I can be no party to this wicked violation of the laws of the country, and to this war upon the liberties of a free people. You can get no troops from North Carolina.

"JOHN W. ELLIS,
Governor of North Carolina.[46]

Two days later he summoned the legislature to meet in extra session. Immediately upon the call for troops he had

[45] Wilmington Journal, March 27, 1861.

[46] Executive Letters, Ellis, p. 394.

ordered the seizure of the forts. Fort Macon had already been taken without orders. Those on the Cape Fear were captured by the Wilmington Light Infantry,[47] and the Fayetteville Arsenal was occupied, without resistance being made, by Warren Winslow with a force of militia.[48]

L. P. Walker, the Confederate Secretary of War, at once asked Governor Ellis to send a regiment to Virginia and this was promised within a few days.[49] The governor at once called for 30,000 volunteers, and a camp of instruction was established at Raleigh.[50] These acts placed North Carolina in the same category with the other Southern States, and consequently President Lincoln on April 27th declared her ports blockaded.[51]

The Union newspapers had now given up the fight, the *Register* saying, "It is the part of prudence and of common sense to look at things as they are and not as we would wish them to be. We believe that Abraham Lincoln is about to wage war of coercion against these States. We believe that in this war the remaining slaveholding States will be involved, and we shall be found on the side of the section in which we were born and bred and in which live our kindred, connections and friends. If this makes us secessionists, then let us be so called." [52] The *Standard*, also, acknowledged the necessity for war but was very lukewarm at first. Later, it became exceedingly warlike in tone.[53]

[47] Off. Rec., No. 1, pp. 476-8.

[48] Ibid., p. 479.

[49] Ibid., pp. 486-7.

[50] Governor's message, Extra session of 1861.

[51] McPherson, History of the Rebellion, p. 149.

[52] April 17, 1861.

[53] Until the call for troops, the position of the newspapers of the State on the question of secession was as follows: For secession, Raleigh State Journal, Wilmington Journal, Fayetteville Carolinian, Murfreesboro Citizen, Elizabeth City Pioneer, Asheville News, Salisbury Banner, Charlotte Bulletin, Charlotte Democrat, Goldsboro Tribune, Goldsboro Rough Notes, Shelby Eagle, Warrenton News, Washington

The Council of State met April 23rd and passed resolutions approving the action of Governor Ellis in taking possession of the forts, and ratifying, by their approval, his reply to Secretary Cameron. They requested him to call out troops not to exceed 5,000 to drill and be prepared for public defence in any emergency.[54]

The General Assembly met May 1st. The governor's message gave an account of his actions and advised the calling of a convention with full powers, as the people were known to have but one opinion as to the course to be pursued. Within less than two hours the House passed, unanimously, a bill calling an unlimited convention.[55] In the Senate, the House bill was immediately passed. Jonathan Worth, L. Q. Sharpe and Josiah Turner voted nay. They based their opposition on the short time given for a canvass, and the fact that the action of the convention would not be submitted to the people.[56] The same day Governor Ellis issued a proclamation, calling an election for delegates to be held May 17th, and calling the convention to meet May 20th.

Before the convention bill was passed the governor was authorized to send troops to Virginia, without limit as to number. The legislature then turned its attention to war preparations.

Times, Tarboro Mercury, Winston Western Sentinel, Wilson Ledger, Tarboro Southerner, and Hillsboro Plaindealer, all Democratic; the Wilmington Herald, Albemarle Southron, Charlotte Whig, Milton Chronicle, Western Carolinian, all Whig and the New Bern Progress, Concord Flag, Raleigh Leisure Hour, all independent. Against secession, the Raleigh Standard and Raleigh Banner, Democratic, and the following Whig papers: Raleigh Register, Fayetteville Observer, Salisbury Watchman, Greensboro Patriot, Iredell Express, Washington Dispatch, Kinston Advocate, Hendersonville Times, Salem Press, Ashe Spectator, Wadesboro Argus, and the Hillsboro Recorder. After the call for troops all were for war.

54 Records of the Council of State, p. 81.

55 P. T. Henry voted affirmatively with a protest.

56 State Journal, May 8, 1861.

Franklin J. Moses was again present and was given the freedom of the floor.[57] A vote of thanks to Governor Ellis for his promptness in preparing for war was passed, receiving only two negative votes.[58] Acts were passed making it unlawful to administer the oath to support the Constitution of the United States, providing for the manufacture of arms at the Fayetteville Arsenal and appropriating $200,000 for the purpose, authorizing the governor to appoint a commissioner near the government of the Confederate States,[59] authorizing the governor to enroll 10,000 State troops, declaring North Carolina free from liability for the Federal debt incurred after March 4, 1861, authorizing the governor to accept 20,000 twelve months' volunteers and to arm and equip them and to offer a bounty of $10 to each, authorizing the governor to commission with equal rank, officers of the army and navy of the United States, who resigned to enter the service of the State, appropriating $5,000,000 for public defence, defining and providing for the punishment of treason against the State, and providing for a stay in the execution of judgments in civil suits.[60]

Before the legislature met, it had been suggested that it should pass a declaration of secession and submit it to the people as a constitutional amendment. This, however, was very generally opposed.[61] But in the Senate Mr. Turner introduced a declaration of independence from the United States. It was, of course, an effort to bring the proceedings of the majority into ridicule, and was not considered.

The campaign for the convention was void of any particular interest. The issue was no longer "Union or Disunion," nor a discussion as to the right and propriety of secession, but simply

[57] Journal of the General Assembly, May 1, 1861.

[58] Josiah Turner and Alfred Dockery in the Senate voted against this resolution.

[59] Thomas L. Clingman was appointed commissioner and visited the Confederate Congress.

[60] These acts are to be found in the Laws, First Extra Session, 1861.

[61] Western Democrat, April 30, 1861.

should North Carolina go with the North or with the South.[62] On this the result was assured, and not a person in the State advocated anything but separation. The cause of the South was regarded as the cause of North Carolina.[63] Quite a number of the old Union men declined to be candidates, not caring to take part in the act of separation, but they advocated a vigorous preparation for war, and war itself, if the existing conditions should continue.

4. *Secession and War.*

The convention assembled in Raleigh May 20th, a day memorable in North Carolina as the anniversary of the Mecklenburg Declaration of Independence. The delegates now, regardless of their opinion on the right of secession, were resolved on separation. The only issue was how it should take place.

The body, as assembled, was probably the ablest and most distinguished in the history of the State. The reason for this is simple. The gravity of the situation made the people forget party and elect their most trusted men regardless of differences in political opinion, and so the best men of both parties were chosen. In many counties a delegate was chosen from each party. The lights of the old Whig party, obscured by uninterrupted Democratic success, again appeared in political position. In fact, the Whigs were in the majority in the convention. And of the Democrats, the majority had been opposed to secession before the call for troops.

Probably the most influential of the leaders in the convention were George E. Badger, Thomas Ruffin, William A. Graham and Weldon Edwards. Among the other prominent men were Asa Biggs, David S. Reid, William Johnston, Warren Winslow, Bedford Brown, W. W. Holden, Kenneth Rayner, R. P. Dick,

62 Western Democrat, April 22, 1861.

63 This feeling is particularly noticeable in the speeches and letters of men of the type of W. A. Graham, George E. Badger and Jonathan Worth.

Burton Craige, George Howard and John A. Gilmer.[64] Five members of the convention had also been delegates in 1835.[65]

The convention organized by the election of president. Weldon Edwards and William A. Graham were placed in nomination. The election was, in a sense, a test of the strength of the two elements composing the convention, which may be called for convenience the secessionists and the revolutionists. The

[64] An idea of the prominence of the group above named can be gained from the positions they had filled. Mr. Badger had been a member of the House of Commons, Superior Court Judge, United States Senator, and Secretary of the Navy. He was nominated for the U. S. Supreme Court, but failed of confirmation. Thomas Ruffin had been member and speaker of the Commons, Superior Court Judge, president of the State Bank, Chief Justice of the Supreme Court, and a member of the Peace Conference. W. A. Graham had been member and Speaker of the Commons, State Senator, U. S. Senator, Governor, and Secretary of the Navy. He was the Whig candidate for Vice-President in 1856. Weldon Edwards had been a member of Congress, State Senator, and for many terms Speaker, a member of the Convention of 1835. Asa Biggs had been a member of the Commons and Senate, a member of the Convention of 1835, member of Congress, U. S. Senator, and U. S. District Judge. David S. Reid had been State Senator, member of Congress, Governor, and U. S. Senator. William Johnston was prominent as a railroad president and business man. He received every vote in Mecklenburg County as a delegate. Warren Winslow had been Speaker of the Senate, Governor ex officio, and a member of Congress. Bedford Brown had been a member of the Commons, Speaker of the Senate, and U. S. Senator. W. W. Holden had been a member of the Commons. Kenneth Rayner had been a member of the Convention of 1835, member of the Commons and Senate, and member of Congress. R. P. Dick had been U. S. District Attorney. Burton Craige had been a member of the Commons and of Congress. George Howard had been prominent as an editor and was a Superior Court Judge. John A. Gilmer had been State Senator and member of Congress. He was the Whig candidate for Governor in 1854, but was defeated. He declined the Treasury portfolio in President Lincoln's Cabinet.

[65] Besides those mentioned in the note immediately preceding, E. T. Brodnax and W. F. Leak.

former won, and Mr. Edwards was elected by a vote of 65 to his opponent's 48. As soon as he had taken the chair Mr. Badger presented a paper for consideration. It was not read at the time but postponed until complete organization should be effected. After this had been completed the president read a communication from F. J. Moses, commissioner from South Carolina, to present her ordinance and to invite the co-operation of North Carolina. He was received by the convention and made a most patronizing speech, welcoming the prospects which he saw for North Carolina's joining in the cause of the South.[66]

Mr. Badger's paper was then read to the convention. It was an elaborate review of the condition of the country and the causes which made separation necessary, and it provided for separation by means of revolution, without any mention of secession in the applied meaning of the word.

Mr. Craige then offered as a substitute an ordinance which had been prepared by Judah P. Benjamin and which he introduced at the request of Governor Ellis.[67] It was as follows:

[66] State Journal, May 22, 1861.

[66a] The following is a summary of the Badger ordinance: The preamble asserts—

1. That Lincoln and Hamlin were chosen by a sectional party, hostile to Southern institutions.

2. That North Carolina, though aggrieved thereby, declined to join the States first seceding, but being ardently attached to the Union, remained therein, hoping that what was threatening might be removed and guarantees for the security of her rights be given, in the meantime exerting her influence for the accomplishment of these ends.

3. While indulging this hope President Lincoln called on the States for troops to invade the seceding States, in order to subject them to military authority; that there was no act of Congress authorizing such call, and that such act, if passed, would be unconstitutional.

4. The call was answered with enthusiasm throughout the non-slaveholding States.

5. It is evident from the tone of the press of those States and the avowal of their public men, that their "government and people intend to wage a cruel war against the seceded States, to destroy utterly the fairest portion of their continent, and to reduce its inhabitants to absolute subjection and abject slavery."

"An ordinance dissolving the union between the State of North Carolina and the other States united with her under the compact of government entitled 'The Constitution of the United States.'

"We, the people of the State of North Carolina, in convention assembled, do declare and ordain, and it is hereby declared and ordained, that the ordinance adopted by the State of North Carolina in the convention of 1789, whereby the Constitution of the United States was ratified and adopted, and also all acts and parts of acts of the General Assembly, ratifying and adopting amendments to the said Constitution, are hereby repealed, rescinded, and abrogated.

We do further declare and ordain that the union now sub-

6. President Lincoln, without shadow of rightful authority, has declared the ports of North Carolina as well as all the other Atlantic and Gulf States, under blockade, thus seeking to cut off her trade with all parts of the world.

7. The whole conduct and words of said Lincoln have been false, disingenuous and treacherous.

8. That he is governing by military rule alone, increasing army and navy without authority, and setting aside constitutional and legal restraints.

9. His "unconstitutional, illegal and oppressive acts," his "wicked and diabolical purposes," and his "position of usurper and military dictator" were sustained by the non-slaveholding States.

Therefore this convention, in the name and with the sovereign power of the people of North Carolina declare—

1st. All connection of government between this State and the United States, dissolved and abrogated, and this State to be a free, sovereign, and independent State, owing no subordination, obedience, support or other duty to them, their constitution, or authorities.

2nd. That "this State has full power to levy war, conclude peace, contract alliances, and do all other acts and things which independent States may of right do."

3rd. "Appealing to the Supreme Governor of the world for the justice of our cause, and beseeching Him for His gracious help and blessing, we will to the uttermost of our power, and to the last extremity, maintain, defend, and uphold this declaration."

This summary is taken from Dr. K. P. Battle's monograph, Legislation of the Convention of 1861.

sisting between the State of North Carolina and the other States, under the title of 'The United States of America,' is hereby dissolved, and that the State of North Carolina is in full possession and exercise of all those rights of sovereignty which belong and appertain to a free and independent State." [68]

An attempt to have the convention sit with closed doors failed. Judge Ruffin then introduced a resolution declaring it the sentiment of the convention that the State should sever its connection with the United States and join the Confederacy, and referred the whole question of the means which should be employed to a committee which should be instructed to consider the matter and report a suitable ordinance. The minority in the convention, with possibly a very few exceptions, were as thoroughly convinced as the majority that separation was necessary, and under existing circumstances, desirable. But they were not prepared, except as a last resort, to give their assent to the doctrine of secession, the right of which had been utterly denied by many of them. They believed that the time had fully come for revolution, and their contention was that the convention ought to ignore any question of secession and pass an ordinance which would not be a constitutional, but simply a revolutionary act. But the majority of the convention were secessionists now, whatever their belief had been in the past, and they would not hear of the plan, nor would they submit to any delay. Mr. Badger's ordinance was stricken out by a vote of 72 to 40. He at once left the hall and went home.[70] Judge Ruffin, still hoping to alter the Craige ordinance, moved to amend it so that it would be a simple declaration of the dis-

[67] The ordinance was brought to Raleigh from Montgomery by James Hines, a North Carolinian, and delivered to Gov. Ellis, who asked Mr. Craige, the member from his county, to introduce it.

[68] Convention Journal, p. 13. [69] State Journal, May 22, 1861.

[70] A member of Mr. Badger's family relates that after his return home, he was seated at the dinner table when the ringing of the capitol bell announced secession. Mr. Badger raised his hand and said, "The death knell of slavery."

solution of the union existing between North Carolina and the other States. Mr. Rayner said that it made little difference to him personally what kind of ordinance was adopted, but that he thought something was due the secessionists and South Carolina. This was the opinion of the majority, for the resolution was defeated.[71] The Craige ordinance was then passed receiving the vote of every delegate present, one hundred and fifteen in all. Mr. Graham as he voted, said that in so doing, he waived all further question of the right of secession. Judge Ruffin, for most of his life, probably the staunchest believer in and supporter of the Union in the convention, said that if a halter were about his neck he would still vote aye.[72]

The announcement of the vote was received with great applause on the floor and in the galleries, and the bell on the Capitol was the signal for a roar of salutes which followed from the military companies in the Capitol Square and all over Raleigh. When quiet was restored the convention, on motion of Mr. Leak, cheered South Carolina vigorously.[73]

An ordinance was then introduced ratifying the Constitution of the Provisional Government of the Confederate States and signifying North Carolina's willingness to join the Confederacy. An attempt to submit the ordinance to the people for ratification failed, and it passed unanimously. A resolution ratifying the permanent constitution of the Confederacy was referred to a committee and the convention adjourned for the day. Its action excited the wildest enthusiasm throughout the State. Secession had been an assured fact, but no one had dreamed of its receiving a unanimous vote.[74]

[71] The vote on Judge Ruffin's resolution was 49 yeas to 66 nays.

[72] State Journal, May 22, 1861. [73] Ibid., May 22, 1861.

[74] Mr. Holden said four years later that he only voted for the secession ordinance because, if he had not he would have been hung in the Capitol Square by order of Gov. Ellis, or forced to leave the State. Apart from anything else to the contrary, the fact that no demonstration was made hostile or discourteous to Mr. Badger, proves the falsity of his belief.

The following day, when Mr. Badger returned to the convention, he asked leave to have his name recorded as voting for the secession ordinance, saying, at the same time, that he objected to the wording of the ordinance, and utterly repudiated any belief in the right of secession.[75] That night, in the presence of a large and enthusiastic body of spectators, the enrolled ordinance of secession was signed by one hundred and twenty delegates, the full membership of the convention. The first act was completed, the reversal of which was only to be accomplished by four long years of war with its attendant bitterness, sorrow, privation and misery of every sort. But at the time no thought of this was present. There was sincere regret at separation from the Union which had been cherished to the last; but rejoicing at freedom from conditions which had long been irksome, and martial excitement were dominant, and casting regret behind all now turned their attention to preparation for the war. Regarding this there seems to have been little doubt in the public mind of the ultimate success of the South, but very few deceived themselves with the belief that the contest would be a campaign simply of one summer.

Copies of the ordinance of secession and the ratifying ordinance were sent to President Davis by the convention, and on May 27th North Carolina was proclaimed a member of the Confederacy. June 6th an ordinance was passed, ratifying the permanent constitution of the Confederate States. This ordinance was not ratified until June 19th. The convention was much criticised for its delay in ratification. Under the lead of W. A. Graham, assisted by R. P. Dick and Kenneth Rayner, a strong fight was made against immediate action. Mr. Graham preferred that the State should act in her sovereign capacity, and not join any Confederacy at that time. Judge Ruffin and Mr. Badger favored immediate ratification. The discussion at times became

[75] State Journal, May 29, 1861.

somewhat heated, particularly between Mr. Graham and Mr. Badger. Party spirit too became apparent.[76] An ordinance declaring the right of secession for cause was introduced and debated but never finally acted on.[77] In the meantime the convention had begun the transfer to the Confederacy of the forts and arsenals within the borders of the State.

During the first session the convention passed in all thirty-five ordinances. These were of more or less importance, but it seems that the convention after the first day spent time in discussion far out of proportion to the amount of legislation accomplished. This was in part due to the large number of lawyers and political leaders in the body. Besides the ordinances already mentioned its work included acts defining treason against the State,[78] postponing the next session of the legislature from June 25th to August 15th,[79] relieving volunteers from the payment of poll tax,[80] securing to the citizens of the State who were in the military service of the State or the Confederacy the right to vote,[81] and appropriating the sum of $3,200,000 to meet the demands on the treasury for the next two years.[82]

The convention elected a full delegation to the Provisional Congress of the Confederacy. The "old Union men" held a caucus, presided over by W. A. Graham, and nominated candidates,[83] but the independent vote decided the election and the

[76] Speaking of party spirit, Judge Ruffin said, "Let us no longer talk of being secessionists now or Union men now, for we are all secessionists from Northern tyranny and Union men for the Southern Confederacy."

[77] Journal, p. 74.

[78] Ordinances, p. 7.

[79] Ibid., p. 7. This caused much dissatisfaction, as did a proposition to dissolve the General Assembly.

[80] Ibid., p. 35.

[81] Ibid., pp. 40-1.

[82] Ibid., pp. 42-6.

[83] Battle, Legislation of the Convention of 1861, p. 126.

delegates were chosen from both of the old parties.[84] After this the convention adjourned on June 28th to meet the following November, unless sooner called by its president.[85]

In the meantime the State was making every effort in preparation for the war. Volunteering was still going on with no sign of any decrease. It is not the purpose of this study to enter into military history. But a more accurate view of internal conditions can be obtained, if it be mentioned that by August, 1862, the State had furnished to the military service of the Confederacy 64,636 volunteers. By November, 1864, 21,608 had been added to this number. Before the end of the war she furnished also, 21,343 conscripts, 9,893 reserves, 3,203 State troops, 3,117 detailed men, and 3,100 serving in regiments from other States, making a total of over 126,000. Besides this several thousand Home Guards were in service. This was one-sixth of the Confederate army.[86] Her military population was 115,369.[87] North Carolina also furnished to the Union army 3,146 white and 5,035 colored soldiers. But of the latter 1,781, enlisted in 1864, were credited to several Northern States to fill out their quota for the draft.[88] Of the higher officers in the military service of the Confederacy the State had two

[84] The delegates were as follows: For the State-at-large, George Davis and W. W. Avery. For the districts, W. N. H. Smith, Thomas Ruffin (of Wayne), Thomas D. McDowell, Abram Venable, John M. Morehead, R. C. Puryear, Burton Craige, and A. T. Davidson. Avery, Ruffin, Craige, Venable, and McDowell were Democrats and original secessionists. The rest of the delegates were Whigs. Davis had favored secession since the close of the Peace Conference.

[85] A committee, consisting of W. A. Graham, Thomas Ruffin, J. W. Osborne, and Asa Biggs, was empowered to summon it in the event of the death of the president.

[86] N. C. Regimental History, Vol. V, p. 1.

[87] Report of Committee N. C. Lit. and Hist. Asso., 1904.

[88] Off. Rec., No. 126, pp. 116 et seq.

lieutenant generals,[89] seven major generals,[90] and twenty-six brigadier generals.[91]

Governor Ellis died in July in Virginia where he was trying to recuperate after the severe strain of the preceding months. He was succeeded by Henry T. Clark, Speaker of the Senate.

The General Assembly met in August. It spent most of the session arguing against the assumption of power by the convention. An attempt was made to submit to the people the question as to whether the convention should meet again. This, naturally, was unsuccessful. The General Assembly finally adjourned in September, after a session of more than a month.

The early battles of the war produced intense enthusiasm, often out of proportion to their importance. The fight at Bethel, for example, was hailed as a great victory and caused more rejoicing than some of the later successes of infinitely greater importance. But hardships soon began. By the autumn of 1861 prices were rising and speculation in the necessaries of life commencing. And at the same time appeared a bitter party spirit, which now, above all times, should have been absent. Party feeling, always intense in the State, had never been more so than in the period which now followed.

[89] T. H. Holmes and D. H. Hill. General Hill's nomination was never sent to the Senate for confirmation.

[90] W. H. C. Whiting (killed), Robert Ransom, Wm. D. Pender (killed), Robt. F. Hoke, S. D. Ramseur (killed), J. F. Gilmer, and Bryan Grimes.

[91] R. C. Gatlin, L. O'B. Branch (killed), J. J. Pettigrew (killed), Geo. B. Anderson (killed), J. G. Martin, T. L. Clingman, Jas. Daniel (killed), Jas. H. Lane, John R. Cooke, R. B. Vance, A. M. Scales, M. W. Ransom, L. S. Baker, W. W. Kirkland, R. D. Johnston, Jas. B. Gordon (killed), W. R. Cox (temporary), T. F. Toon (temporary), W. G. Lewis (temporary), Rufus Barringer, John D. Barry (temporary), A. C. Godwin (killed), Wm. McRae, C. Leventhorpe, Gabriel Rains, and W. P. Roberts. Generals Hill, Cooke, and Whiting were not natives of the State. Generals Bragg, Polk, Wilcox, Zollicoffer, and McCullough were natives of North Carolina, but were appointed from other States.

V. War Politics and the Peace Movement.

Party spirit slept, or more properly, appeared to sleep, only a short time after May 20th.[92] Reference has already been made to the caucus held by the "Union men" during the first session of the convention. This was held at the residence of Mr. Holden, and the *Standard* was the recognized organ of the faction, which was soon to assume a party name. Mr. Holden's attacks upon Governor Ellis ceased for a short time after secession, but were soon renewed with increased bitterness. His paper from being very lukewarm towards the Confederacy had become, by this time, apparently, a strong supporter of it and was most violent against the North. But in the State administration it found no good. Governor Ellis' military appointments were sharply criticised, and this led to a newspaper war that lasted to the close of actual hostilities, and in fact, during the whole period of Reconstruction, with one short truce. The hatreds aroused at this time materially influenced the history of the State for the next ten years. Bitterness, however, was by no means confined to Mr. Holden or those who acted with him. He was hated by the Democrats, who felt that he had deserted them, and distrusted by as many Whigs for the same reason.

The opposition to the war party was quiet at first but grew steadily. By a combination with the friends of William T. Dortch the opposition secured his election to the Confederate Senate. The reason assigned for defeating W. W. Avery, who had been delegate for the State at large to the Provisional Congress, was that the views of Dortch regarding secession had been more moderate.[93] The first open division along party lines was in the presidential election in November 1861. The *Standard* published an electoral ticket which failed to

[92] Jonathan Worth, in a letter to James B. Troy, May 21, 1861, said there was only a feigned alliance between the two parties.

[93] Standard, September 18, 1861.

meet with the approval of the *State Journal,* and the latter at once published an opposition ticket containing, however, five of the names which were on the original ticket.[94] The Journal's ticket was successful, and this was regarded by the war party as a vote of confidence. The cleavage was more evident when the convention re-assembled in the winter. Early in the session a resolution was unanimously passed, declaring their belief in the justice of the war and in the patriotism and integrity of the State and Confederate administrations. But little else in its proceedings showed unanimity.

Probably the most important question of the session was regarding an ordinance to define and punish sedition, which was introduced by Judge Biggs, and which, among other things,[95] provided for a test oath to be administered to all males in the State except the volunteers. The penalty for refusal to take it was exile from the State. Naturally it met with great opposition. This was led in the convention by William A. Graham

[94] It is interesting to notice that during the war there was no State political convention. The nearest approach to it was a peace meeting in the Tenth Congressional District in 1864, which nominated George W. Logan for the Confederate Congress. All other nominations were made by or through the newspapers.

[95] The ordinance also declared any of the following offenses to be a misdemeanor and, as such, punishable: (a) Attempting to convey information to the enemy. (b) Publishing and deliberately speaking against the public defence. (c) Maliciously and advisedly endeavoring to excite the people to resist the government of the State or of the Confederate States. (d) Persuading the people to return to a dependence on the government of the United States. (e) Knowingly spreading false and dispiriting news. (f) Maliciously or advisedly terrifying and discouraging the people from enlisting into the service of the State or Confederate States. (g) Stirring up or exciting tumults, disorders, or insurrections in the State. (h) Disposing the people to favor the enemy. (i) Opposing or endeavoring to prevent the measures carried on in support of the freedom and independence of the Confederate States. This summary is taken from Battle's Legislation of the Convention of 1861.

and R. P. Dick. The former's speech in opposition to it was probably the main cause of its failure. He placed particular stress on the injustice to the Quakers. Mr. Dick argued that it would lead to the belief that North Carolina was a nest of traitors, a fact which was disproved by the large number of volunteers that had gone to the front, and that the spirit of the thing was contrary to the principles and ideas of the State.[96] The ordinance was tabled indefinitely by a large vote in December, and an attempt made the following February to consider it without the test oath, was defeated by a vote of 41 to 37.[97] The matter was brought up again at the last session with the same result. The proposed ordinance was never popular in the State, and was regarded with horror by many.[98]

During the session resolutions were introduced, declaring against party spirit, but they were never allowed to come to a vote, as the friends of the administration saw in them a veiled attack upon President Davis, Governor Ellis, and Governor Clark, and succeeded in having them tabled. Many other things were considered by the convention, and, remembering the difficulties experienced in the past, in securing amendment and revision of the constitution, it discussed and laid plans for quite a number of important constitutional changes. These were never finally adopted by this convention. Various matters, however, occupied its attention, and a fourth session was held in April, 1862. It adjourned in May, subject to the call of the president, and if no call was made by November, 1862, this adjournment was to become *sine die*.

By the time of its last session, the convention had become unpopular with the people generally. It accomplished little that they felt could not have been done by the General Assembly, and they were anxious for its adjournment. The original

[96] Standard, Dec. 18, 1861.

[97] The State Journal said this was a strict party vote.

[98] Battle, Legislation of the Convention of 1861, p. 124. The vote on tabling it was 47 to 43. Journal, p. 64.

secessionists in the convention were in part responsible for this feeling, for they were in the minority and consequently desired adjournment in order that the legislature, in which they had a majority, might control the State.[99]

An effort was made before the convention adjourned to influence it to declare the office of governor vacant and to elect a successor to Governor Clark. As Mr. Holden was prominently connected with this enterprise, it was commonly supposed that he desired the office.[100] The plan failed, but the convention provided for an election for governor and ordered that he should assume the duties of the office in September, instead of the following January.[101] Immediately the campaign began. The *State Journal* proposed that a convention should be held and its nominee elected without a contest. The press, with the exception of the *Standard*, favored this idea, but when it was seen that a contest was inevitable, the Charlotte *Democrat* nominated William Johnston. He was, although a Whig, representative of the secession party, and it was felt that his business training and his executive ability as shown in his career as a railroad president, and, since the beginning of the war, as Commissary General of the State, would render him suitable for the position.

Meanwhile the "Conservatives," as they now called themselves, were casting about for a candidate. William A. Graham was their first choice, but he declined to allow the use of his name. Through the influence of A. S. Merrimon, the Fayetteville *Observer* nominated Zebulon B. Vance of Buncombe, at the time colonel of the 26th North Carolina regiment. He had been a Whig member of the Thirty-sixth Congress and had opposed secession until the call for troops, when he became a secessionist.[102] He then volunteered and rose rapidly to the

[99] Journal, p. 130. [100] Western Sentinel, Jan. 31, 1862.

[101] Ordinances, 2d Session, p. 7.

[102] Vance said he was speaking for the Union with his arm raised when the news came of the President's call for troops and his arm fell to the side of a secessionist. Speech to Andrew Post, G. A. R.

rank of colonel. In the fall of 1861 he declined to be a candidate for Congress on the ground that there was greater need of fighting men,[103] and even now he was very doubtful as to the wisdom of allowing his name to be used, but finally consented.[104]

A large part of the press opposed a personal canvass in 1862, but the *Standard* said, "Honest men do not fear a public discussion, but only the venal and corrupt," [105] and urged that one should be held. But apart from Vance's speeches in the army, the candidates took little part in it. The campaign was one of extreme heat and bitterness, especially between the newspapers.[106] There was no real issue regarding the war, for both parties claimed to have the same objects in view. It was really a campaign fought on the personality of the leaders. This was frankly the case so far as the Conservatives were concerned. But the original secessionists or "Confederate" party, saw, or appeared to see, in the success of the Conservatives, a complete surrender to the North. They adopted as a platform, the resolutions of confidence passed by the convention, and placed a summary of them upon their ticket which was as follows:

NORTH CAROLINA CONF. TICKET.

.....

ITS PRINCIPLES:

An unremitting prosecution of the war; the war to the last extremity; complete independence; eternal separation from the North; no abridgement of Southern territory; no alteration of Southern boundaries; no compromise with enemies, traitors, or tories.

JEFF. DAVIS, OUR ARMY, AND THE SOUTH.

.....

FOR GOVERNOR:

WILLIAM JOHNSTON,

OF MECKLENBURG.

[103] Dowd, Life of Vance, p. 68.

[104] His letter of acceptance is in the Fayetteville Observer of June, 1862.

[105] Quoted in Western Sentinel of April 18, 1862.

[106] In the campaign the Standard, Fayetteville Observer, Hillsboro Recorder, Greensboro Patriot, Wadesboro Argus, Franklin Carolinian,

It was not remarkable that the designs of the Conservatives were a cause of suspicion to their opponents. Nor is it probable that they were mistaken in their opinion of the objects of Mr. Holden. He was outspoken now in his opinion of the war, and said, "All those who, with South Carolina, preferred to break up the government, and who have not repented for so doing, will vote for Colonel Johnston." [107] But both Holden and his opponents were mistaken regarding the character and purposes of most of his associates.

During the campaign a number of things, apart from the political questions involved, contributed to aid the Conservative cause. Since the beginning of the war there had been much dissatisfaction in the State at the attitude of Virginia towards North Carolina. There was a feeling also that it was due largely to Virginia influence that more North Carolina officers were not rewarded for their services by promotion. The *Standard*, as a ground for attack on the Confederate government, commented frequently on this. Just at this time the Richmond *Enquirer* commenced a series of attacks on the State. It is needless to say that the most was made of them for campaign material. Another material advantage was gained when Mr. Badger made public a letter he had written to Mr. Ely, of New York, and transmitted through Edward Stanly, who had lately been appointed military governor of North Carolina. This defended the action of the former Union men of the State and declared that they were all true to the Confederacy and would never consent to a reunion with the North. This had effect in allaying the fears of many who were in doubt as to the loyalty of the leading Conservatives.

Henderson Times, Salem Press, and Salisbury Watchman favored Vance, while the Wilmington Journal, Raleigh Register, State Journal, Winston Sentinel, Concord Flag, Statesville Express, Shelby Eagle, Asheville News, Western Democrat, Charlotte Bulletin and Charlotte Whig, were for Johnston.

[107] Standard, June 21, 1862.

The "Confederates" tried to offset this by quotations from the Northern papers, which were just now devoting much attention to North Carolina, and declaring that the election of Vance would be a Union victory.[108] The *New Era*, published in Washington, N. C., which was now occupied by the Federal troops, issued an appeal to all Union men to vote for Vance and the other Conservative candidates.[109] But the people could not be convinced that Vance was untrue, and an overwhelming victory was the result of the election. Out of a total vote of 74,871 he received a majority of 33,975. Mr. Johnston carried only twelve counties. Out of the army vote of 11,683, not distributed by counties, Vance's majority was 3,691. Never before had there been such a majority in a North Carolina election.

Governor Vance, in his inaugural, outlined his policy and brought comfort to those of his opponents who had believed that he favored a return to the Union. Speaking of secession, he said, "It was not a whim or sudden freak, but the deliberate judgment of our people. Any other course would have involved the deepest degradation, the vilest dishonor, and the

[108] The Philadelphia Enquirer of June 18, 1862, commenting on the editorials of the Standard, said, "But here it comes out square and full, and in defiance of the Rebel powers, plants itself beside the old and honored Union. Who can doubt that a State where such words are boldly uttered at a hundred miles distance from our armies, is ready to return, is even now returning, from her prodigal and ruinous career?" After the election it is said, "The issue in North Carolina was squarely secession against anti-secession. * * * The result is a Union victory."

[109] The Register answered the appeal of the New Era as follows: "Voters of North Carolina! Do you doubt now the end and aim of Conservatism? Do you doubt that the Conservatives of the Department of North Carolina (Stanly's Department) and the Conservatives of the rest of the State are united by the common tie of reconstruction? Will you not see the gulf that is yawning at your feet and crush out a party that would force you into a Union with those who are waging against you the most brutal war that the malice of the devil ever instigated?"

direst calamity. We also accepted with the act all its inevitable consequences, a long and bloody war. * * * To prosecute this war with success is quite as much for our people as for our soldiers to do. One of the most vital elements of our success is harmony. On this great issue of existence itself let there, I pray you, be no dissenting voice in our borders." To the surprise of many he pledged the enforcement of the conscript law. The speech throughout was a plea, and at the same time a pledge, for the untiring prosecution of the war. It met with hearty approval all over the State, the most cordial being expressed by his political opponents, and all question of his position regarding the war was at an end.

It is not likely that at this time many people in the State meditated a return to the Union. It is certain that there was a small number who were planning such a thing whenever a suitable opportunity arose. But extreme dissatisfaction was present in many quarters and from various causes. The lack of an adequate coast defence, from the beginning of the war, was a ground of attack upon the Confederate government.[110] The establishment of the military prison at Salisbury caused much dissatisfaction, particularly in its neighborhood. This increased as the war progressed and many North Carolinians were imprisoned there.[111] Disloyalty appeared in the eastern counties at the time of Federal occupation, and there was more or less of it throughout the war. As the year 1862 advanced cases elsewhere became more frequent. The assertion was constantly made that extreme disloyalty existed in Davidson,[112] Forsyth, Randolph and Guilford counties. In Forsyth it was, at first, only a feeling in favor of peace, lacking leaders to

[110] The Wilmington Journal even called for the southeastern counties to unite with South Carolina, as the State disregarded their necessity. September 25, 1862. [111] Clark to Seddon, January 5, 1862.

[112] As early as July, 1861, Gov. Clark was notified of treasonable utterances and actions in Davidson, but was powerless to do more than appeal to the people to assist him by their influence. Executive Letters, Clark, p. 57.

make it a definite movement. In the campaign of 1862 one of the candidates for the legislature declared in favor of a compromise with the North and a reconstruction of the old Union.[113] The great Quaker element in these counties was largely responsible for the opposition to the war, and although they furnished a considerable number of volunteers, the discouraging of volunteering and quiet resistance to conscription were so frequent that Governor Clark was compelled to issue a proclamation against it.[114] Deserters, also, began to come to these counties in such numbers as to excite attention. In March, a company was ordered for duty in Chatham for the purpose of arresting them. The State administration was practically powerless, for the criminal code made no provision for the offence, and the military code was almost useless in North Carolina.[115] At the election of 1862 troops had to be sent to Wilkes and Yadkin to prevent the deserters from interfering at the polls.

In the extreme West, matters had assumed a still more serious aspect. General E. Kirby Smith was forced to send a detachment of troops to Madison county. He wrote Governor Clark that the whole population of Laurel Valley was hostile to the Confederacy and that all the males were under arms. Skirmishing was kept up the whole time the troops were in the valley.[116] Application was made to the War Department by the State for a military court for Western North Carolina for the sole purpose of trying deserters,[117] but no attention was paid to the request. Governor Vance, soon after his inauguration, asked that troops might be sent there, and suggested that they should be from other States that the temptation to desert might be less. In the autumn many of the deserters

113 His speeches were quoted in the Western Sentinel of July, 1862.
114 Executive Letters, Clark, p. 301.
115 Mesage to the Council of State, February, 1862.
116 Off. Rec. No. 10, p. 629.
117 Ibid, No. 128, p. 674.

crossed over into Tennessee, and many formed organizations there for their defence.[118]

In the spring of 1862 another cause of discontent was the appointment of W. S. Ashe by the Confederate government to procure arms in the State. He advertised that he was authorized to purchase arms, and if necessary, impress them. Governor Clark at once issued a proclamation to the people, declaring that there was no legal authority to direct the seizure of arms, and asking them to sell to the State whatever arms they had. He also wrote to Ashe and told him that no seizure of arms would be permitted.[119]

The new General Assembly had a decided Conservative majority, and at once proceeded to oust the Secretary of State and Treasurer and replace them with Conservatives.[120] This was the beginning of the execution of the plan which Mr. Holden had mapped out. Every Conservative member who exercised his own judgment in voting and so gave "aid and comfort" to the "Destructives," as he called the "Confederates," was condemned as guilty of bad faith.[121] In further pursuance of the policy William A. Graham was elected to the Confederate Senate to succeed George Davis. The Adjutant General of the State, J. G. Martin, held also the rank of brigadier-general in the Confederate service; and because of this his office was declared vacant, and a successor chosen.[122] The Attorney-General shared the same fate.[123]

The usual resolutions declaring the separation from the Union final and endorsing President Davis and Governor Vance were passed.[124] The North Carolina delegation in the Con-

[118] Off. Rec., No. 23, p. 940.

[119] Executive Letters, Clark, p. 301.

[120] J. H. P. Russ was elected Secretary of State and Jonathan Worth, Treasurer.

[121] Standard, December 3, 1862.

[122] Daniel G. Fowle became Adjutant General.

[123] Sion H. Rogers succeeded W. A. Jenkins as Attorney General.

[124] Laws, 1862-3, p. 43.

federate Congress were requested to urge the repeal of the "twenty-negro" clause of the military exemption act as unnecessary and in violation of the Bill of Rights and the spirit of North Carolina institutions.[125] A protest was made against the policy of burning cotton in the eastern part of the State.[126]

A great deal of unfriendly criticism had been aroused a short time before by the arrest of Rev. J. R. Graves, a minister of Orange county, by order of the Confederate authorities, as a spy.[127] His chief offence had been an unwise conversation while on his way South through the Federal lines, and a letter predicting a long war, which gave some slight information to the enemy. He was carried to Richmond and imprisoned. The General Assembly now directed the governor to demand his release. Upon his demand, Secretary Seddon gave an account of the causes of his arrest, justifying it as necessary, but disavowing the responsibility for his being taken from the State. No evidence was found against him and he was released.[128] Acts of this kind produced intense indignation in the State and fed the growing discontent with the Confederate government and its policy. Governor Vance in his message informed the legislature that there were many citizens of the State confined at Salisbury for political offences and asked that steps be taken to preserve the rights of the people. He was accordingly instructed to inquire into the causes of the arrest of the political prisoners,[129] and relief was granted by an act providing that the writ of *habeas corpus* should be issued, directed when necessary to the sheriff of the county where the arrest took place and by whom it should be obeyed and executed.[130]

125 Laws 1862-3, p. 49.

126 General French had lately ordered all cotton east of the Wilmington and Weldon railroad to be burned to prevent its capture by the enemy.

127 Off. Rec. No. 118, pp. 98-100, 794-5.

128 Governor's message, 1862.

129 Laws, 1862-3, Chap. 46.

130 Ibid, p. 76.

A bill was introduced providing for the enlistment of ten regiments of volunteers between the ages of eighteen and forty-five years of age, not liable to conscription. The bill was introduced by Judge Person. But it was so amended as to omit the provision of non-liability to conscription, and an effort to insert a preamble stating that no conflict should occur with the laws of the Confederacy was unsuccessful. It was clearly the purpose of the Conservatives to prevent the execution of the conscript law, and this excited so much opposition that the bill was defeated in the Senate after passing the House. Immediately afterwards, as an answer to criticism from Virginia, a resolution was passed, vindicating the loyalty of the State and of the General Assembly. Seven "Confederate" members of the Senate and thirteen of the House voted against it on the ground that it endorsed the "Ten Regiment Bill." [131]

The whole tendency of the majority in the legislature as expressed in their acts and resolutions was to oppose all further centralization of power by the Confederate government, and in so doing, oppose it in other respects. Mr. Holden, although not a member, was the dominating influence.

Immediately upon the adjournment of the legislature a meeting was held by the members favoring a vigorous prosecution of the war and all citizens who cared to join them. An address to the people was issued, condemning the action of those who were opposing the war, and a central committee and a committee of correspondence were appointed. Prominent in this movement were ex-Governor Bragg, who had lately resigned from President Davis's cabinet and was in a sense a representative of the Confederate government in the State, Kenneth Rayner, D. M. Barringer, ex-Governor Reid, W. W. Avery and Weldon Edwards.[132]

The period between the adjournment of the legislature in February and its assembling in extra session on June 30th at

[131] Journal, 1862-3, pp. 31, 190.

[132] Register, February 18, 1863.

Governor Vance's call to consider financial matters, was without events of importance. It was marked, however, by a growing aversion to the conscript law and by constant appeals to the judiciary for writs of *habeas corpus* to obtain the release of those conscripted. Governor Vance, in May,[133] ordered the militia officers not to arrest persons who had been discharged under the writ, and to resist such arrests by any persons not authorized by a court having jurisdiction. At the same time the increase of desertions caused him to issue a proclamation urging all those absent from their commands to return at once.[134] He also issued a third proclamation asking for volunteers to enable him to comply with the President's call for seven thousand for six months' service in the State. He also referred the matter to the legislature when it met.

The session only lasted a week. In this time laws were passed providing for the enrollment of a force of militia and for the punishment of those assisting and encouraging desertion. The governor was authorized to use the militia to enforce the conscript laws.[135] Governor Vance visited the body while in secret session and urged the drafting of magistrates and secured the adoption of the exemption bill of the Confederate Congress.[136]

Up to this time the peace sentiment had been expressed only individually. It reached the public, as a general thing, only through the editorial columns of the *Standard* and the *Progress* [137]and such papers as quoted them in opposition to their policy.

[133] Proclamation of May 11, 1863.

[134] Register, May 16, 1863.

[135] Laws, Extra Session, 1863.

[136] Off. Rec. No. 128, p. 619.

[137] The Progress had been published in New Bern until Federal occupation of the place. It was now conducted in Raleigh and was strongly opposed to the Confederate government. It had formerly been a strong secession paper.

But a change now took place. Major Bradford, a Virginian, was appointed to collect the Confederate tithes in North Carolina. The ill feeling existing at the time on account of North Carolina troops being placed under officers from other States was intense, and the discontent at other acts of the government has been noticed. This was well known at Richmond, and the appointment was regarded in the State as showing a total disregard for the wishes of the people. Criticism was so severe and the people were so aroused that Governor Vance finally requested the withdrawal of Bradford and the appointment of a North Carolinian. This was done, but a pretext had already been given for action by the discontented element. Early in July the *Standard* called upon the people to assemble and express their opinion on the state of the country.[138] This was followed a week later by an editorial which expressed the feeling behind the movement, "Peace! When shall we have peace?" It then quoted with approval from the *Progress* as follows: "We favor peace because we believe that peace now would save slavery, while we very much fear that a prolongation of the war will obliterate the last vestige of it."[139]

During the last week in July two meetings were held in Wake County. One demanded any peace that would give equality with the North. The other requested President Davis to suspend hostilities and call a convention of the States.[140] Both denounced the Confederate administration and endorsed Mr. Holden. Surry followed a few days later demanding "The Constitution as it is and the Union as it was."[141] In close succession there followed meetings all over the State. The proceedings of sixty, held in about thirty counties were published.[142] A large meeting was also held for the Tenth Congressional District. There is such a similarity in the resolutions passed that they evidently originated from the same

[138] Standard, July 8, 1863.
[139] Ibid, July 17, 1863.
[140] Ibid, July 29, 1863.
[141] Ibid, Aug. 12, 1863.
[142] Mr. Holden said that over one hundred were held.

source. Mr. Holden denied this and said that the meetings and resolutions were purely spontaneous.[143] But the evidence proves the contrary. The preceding January a meeting had been held in the 14th North Carolina Regiment to protest against the proposed "Ten Regiment Bill." Mr. Holden then threatened that if such meetings were held in the army he would start them at home for the people to "express their opinion on the state of the country.[144] President Davis had been warned before the movement began that a series of such meetings was to be held and that many feared that there was to be open resistance to the Confederacy. It was also intimated that the plan was to excite the people and co-operate with the enemy.[145] He informed Governor Vance of this, who replied that there was no reconstruction party in North Carolina and that it would be unwise to take any steps against Mr. Holden. The former acknowledged, however, the existence in the State of widespread bad feeling and dissatisfaction with the Confederate government.[146] Mr. Holden was evidently feeling the pulse of the State with a view to decided action for the Union. He had, a short while before, written Andrew Johnson, then military governor of Tennessee, that the people of North Carolina were true to the Union and would seize the first opportunity to free themselves from the Confederacy.[147] General J. G. Foster also heard from some private source that such a plan was on foot.[148]

The publication of the proceedings of these meetings aroused a storm of abuse, particularly in the army. Over thirty regiments passed resolutions denouncing Holden and the meetings. A convention composed of delegates from every North Carolina regiment met at Orange Court-house, Virginia, and issued a protest, declaring false the claim of the *Standard* that the

143 Standard, Aug. 12, 1863.
144 Ibid, Jan. 14, 1863.
145 Off. Rec. No. 108, p. 739.
146 Ibid, p. 740.
147 Ibid, No. 50, p. 183.
148 Ibid, No. 45, p. 751.

troops approved its action.[149] In a few counties opposition meetings were held, and the grand jury of Surry, where the demand for peace had been most outspoken at the ensuing court, requested that all such meetings should cease, as they were disloyal and dangerous.[150] Mr. Holden was burnt in effigy in several places, and the feeling against him was more bitter than it had ever been. Every paper in the State, with the single exception of the *Progress,* condemned him. He, however, secure in the belief that he would not be harmed, calmly watched the storm and said, "Let the people speak; it is refreshing to hear them."

Meanwhile Governor Vance, who, while anxious for peace, had opposed the meetings as dangerous until overtures came from the North,[151] issued a proclamation urging the people to desist. General R. F. Hoke's brigade was ordered into the State about this time, and it was supposed that it was there to be on hand in case of any outbreak. So the meetings ceased. But Mr. Holden, and for that matter, many others, felt that he had the masses with him. The army, however, was still hostile.[152] So he contented himself with keeping the *Standard* full of communications that would keep the subject of peace before the people,[153] and that would excite hostility to the Confederate government. He attempted to identify the movement with the one in Georgia, ignoring the fact that the latter demanded Confederate action, while he favored action by the State.

[149] Wilmington Journal, August 20, 1863. Mr. Holden claimed afterwards that the delegates were all officers and that the privates were in sympathy with him. But many of the delegates were privates.

[150] Western Sentinel, October 1, 1863.

[151] Standard, July 29, 1863.

[152] Jonathan Worth to J. M. Worth, August, 1863.

[153] Lewis Hanes commenced a series of ably written articles against secession and the war, signed "Davidson." Dr. J. T. Leach also contributed a series of letters bitterly attacking the Confederate administration.

The meetings and discussions had one effect: they caused desertions from the army in considerable numbers.[154] The matter now became alarming. The deserters congregated in the mountains where it was almost impossible to reach them and plundered and murdered at their own will. They made overtures to Governor Vance to enlist them for service in the State, but it was never allowed by the War Department.[155] The Home Guard was utterly unable to cope with them, and in many places they were assisted and encouraged by the inhabitants, who were actuated either by sympathy or fear.[156] Nor were they only in the mountains. In Wilkes County five hundred of them were in a military organization under arms, and there were large numbers in Randolph, Catawba, Yadkin and Iredell, not to mention other localities where they were not so numerous.[157] A decided growth of Union sentiment was noticeable after Gettysburg and the fall of Vicksburg.[158]

The feeling aroused by the peace meetings was not long left without an outlet. In September a portion of Benning's Georgia brigade[159] spent a night in Raleigh. A number of the soldiers went to Mr. Holden's residence, but he eluded them and went to the Governor's Mansion and took refuge there until Governor Vance returned. After failing to find Mr. Holden the soldiers went to the *Standard* office and sacked it, throwing the type into the street. The press, however, was not injured. Governor Vance, who was sent for, came and urged the mob to disperse without further violence. The next morning, in retaliation, a mob composed of citizens of Raleigh, led by Mark Williams, a strong Union man, sacked the office

154 Off. Rec. No. 49, p. 660; Carolina Watchman, March 21, 1864.

155 Ibid., No. 128, p. 674.

156 Ibid, No. 49, p. 676.

157 Ibid, No. 128, pp. 783-5.

158 Ibid, No. 35, p. 950.

159 The Georgia troops claimed afterwards that the soldiers of the 48th N. C. regiment were engaged in the riot and The Spirit of the Age said the same thing.

and utterly destroyed the property of the *State Journal.* Governor Vance again interfered to prevent further trouble. But for his preventive measures the *Progress* would have been destroyed the following night.[160] He at once complained to the President, but, beyond an investigation resulting in no evidence, nothing was done. For some time troops were not allowed to pass through the city for fear of the consequences, but even this prohibition did not last long.

The fall elections showed that although the peace feeling was strong in the State its voting strength was less than that of the Conservatives in 1862. The new delegation to the Confederate Congress had five of the *Standard's* candidates. But in nearly every instance they were elected by a plurality vote over several candidates. A total vote of 30,641 was cast, and a majority of 2,834 was against the Holden candidates. This, from the number of elements entering into the contest, is slight evidence in itself, but it marks a difference.[161] The successful candidates representing the peace feeling were James T. Leach, Josiah Turner, George W. Logan,[162] Samuel Christian and J. G. Ramsey.

So generally was the sentiment for peace diffused among the people, though no longer expressed in resolutions, that Governor Vance finally wrote to the President that the discontent in the State could only be removed by an attempt at negotiations with the enemy.[163] The President replied that it was impossible on account of the refusal of the Washington authorities. At the same time he expressed his distrust of any movement like that in North Carolina, and warned Governor Vance against delaying action too long in efforts at conciliation.[164]

[160] Fayetteville Observer, September, 1863. The State Journal never resumed publication. The Standard resumed in about a month.

[161] Western Sentinel, January 28, 1864.

[162] George W. Logan was nominated by the peace meeting for the Tenth district. Standard, October 14, 1863.

[163] Off. Rec. No. 108, p. 807.

[164] Ibid, pp. 809-10.

The General Assembly met in November. Little legislation of importance resulted. The governor was directed to use the militia for arresting conscripts and deserters only in their own or adjacent counties.[165] The salaries of the State officers were increased to keep up to some extent with the depreciation of the currency.

Early in 1864 the Attorney-General of the Confederacy resigned and was succeeded by George Davis, whose term in the Confederate Senate had not expired. Ex-Governor Graham had already been elected to succeed him, and Governor Vance asked him to fill out the unexpired term. He refused, as did ex-Governor Swain, who was later offered the appointment. Judge Edwin G. Reade finally accepted as a favor to Governor Vance.[166]

During the winter Governor Vance visited the Army of Northern Virginia, and a general review was held in his honor.[167] He was there several days and spoke to the North Carolina troops frequently, urging and encouraging them to renewed efforts.[168]

In North Carolina talk of the necessity of a convention was beginning to be heard. Resolutions demanding the call of one were prepared by Mr. Holden and Dr. J. T. Leach and introduced by the latter at a peace meeting held in Johnston county.[169] Mr. Holden then decided that another series of meetings

[165] Laws, 1863, Chap. 18.

[166] Executive Letters, Vance, Vol. II, p. 64 et seq.

[167] This seems to have been the only instance of the kind during the war.

[168] General Lee said Vance's visit to the army in its results was equivalent to a reenforcement of 50,000 men. Dowd, Life of Vance, p. 125.

[169] The important part of the resolutions is as follows:

"Whereas, the alarming and fearful tendency of the Confederate Government towards a military despotism by the enactment of unjust and oppressive laws, to citizens is just cause of complaint.

Resolved, That North Carolina, as a sovereign and independent State, has a right to consult the present good and future happiness of her

should be held. Governor Vance, while regretting the division which now came definitely between Mr. Holden and himself, refused to co-operate in the movement for a convention, and even thought of declining to be a candidate for re-election.[170] Another series of thirty or more peace meetings were now held and their proceedings published. All were hostile to the Confederate government and nearly all demanded a convention. It is noticeable that Governor Vance was endorsed by nearly all of them. Mr. Holden, evidently, still hoped to control him, but Vance finally told him that all his pledges had been for a vigorous prosecution of the war and that his policy had been outlined in his inaugural address.[171]

The Richmond authorities were kept informed of the condition of feeling in the State,[172] and if matters had assumed a more serious aspect, would probably have interfered. Governor Vance, too, entered into a correspondence with President Davis which became decidedly unpleasant in tone as it progressed. The President was warned that if the writ of *habeas corpus* should be suspended and arrests made in the State there would be resistance, particularly if they appeared unconstitutional. Governor Vance advised as little use of military power as possible, and said that if there was no military interference he had no fear of the appeal to the ballot box, as good and true men were working against any call of a convention and would do so while the civil law remained intact, and he did not believe the required majority for calling a

citizens, and when she is forced to choose between a military despotism and her State sovereignty, for the good of the people, she will choose the latter by a convention of her citizens." Standard, January 12, 1864.

[170] Spencer, Last Ninety Days of the War in North Carolina, pp. 124 et seq.

[171] Mr. Holden and Dr. Leach asserted later that Governor Vance had approved of the Johnston County resolutions. This was, on the face of it, false.

[172] Off. Rec. No. 129, p. 88.

convention could be obtained. He accused Mr. Davis of proscribing of "old Union men" and gave that as one reason for the discontent with the Confederate administration.[173] In his reply Mr. Davis denied the charge, but acknowledged that he suspected that a nest of traitors were conspiring at home, and hinted at arbitrary measures, promising that if they were necessary due regard would be paid to civil rights.[174] Governor Vance again wrote renewing the charge, but denying any personal feeling.[175] Mr. Davis made an explanation, and after declaring that Governor Vance had overstepped the bounds of propriety, requested that the correspondence might cease.[176] At the request of the North Carolina members of Congress Governor Vance published the correspondence in June, omitting the portions of the President's letters that he thought would do harm.

On February 24th the *Standard* announced the passage of the act of Congress suspending the writ of *habeas corpus*, and, in the same issue, Mr. Holden announced that the publication of the paper would be suspended indefinitely. The latter was a surprise to the public, but the reason is evident. March 3rd he issued an extra edition and announced himself as a candidate for governor. Reversing his opinion of 1862,[177] he requested that there might not be any canvass, as it would cause useless disturbance and excitement. He declared himself a Conservative "after the straitest sect." The announcement caused no surprise, for it had been generally predicted that he would be a candidate. The campaign was thus begun five months before the election.

[173] President Davis sent this letter to George Davis, endorsed as follows: "For consideration and advice. The assertions are discourteous and untrue. The rhetoric is after the manner of the Standard. Neither my acts nor my words can justify the slander that I have regarded North Carolinians with distrust or withheld due promotion to any of her gallant soldiers. J. D." Off. Rec., No. 108, pp. 218-20.

[174] Ibid, pp. 824-7.

[175] Ibid., pp. 830-3.

[176] Ibid, pp. 844-6.

[177] See p. 39, preceding.

The *Standard* resumed publication in May, and active work was commenced for Mr. Holden. The opposition, at first, caused consternation among the friends of Governor Vance, as many of them did not appreciate his power. Mr. Holden relied mainly on the masses from whom he had sprung and whom he had hitherto led. But Governor Vance, also, was pre-eminently a man of the people, and his efforts to relieve suffering of every kind, and his steadfast determination to preserve civil liberty, had endeared him to thousands. His care of the soldiers, the fact that he had been a soldier himself, and his efforts for a vigorous prosecution of the war made friends for him among those who had opposed him most bitterly only two years before, and who were still intensely hostile to Mr. Holden. But it was a battle of giants. Mr. Holden was an old and experienced political leader and had always been able to interpret public sentiment. And he had usually been on the popular side. But he now failed to realize how much he had helped to create and mould the peace sentiment, and believing that it originated with the people he thought their minds could not be turned from it. His editorials were as vigorous as ever, and were even more widely read than ever,[178] but a new power had risen against him—the oratory of Vance. Nothing more stirring or effective was ever known in the politics of North Carolina. The people flocked to hear him, and his speeches at Fayetteville, Raleigh and Wilkesboro, particularly, attracted great attention. From this time, regardless of past affiliations, but with no change in his policy, Governor Vance was allied with the war party. His platform, terse and vigorous, indicates this:

"The supremacy of the civil over military law.

"A speedy repeal of the act suspending the writ of *habeas corpus*.

"A quiet submission to all laws, good or bad, while they remain on the statute books.

[178] The circulation of the Standard was increasing very rapidly at this time. Mr. Holden would send it when desired, regardless of payment for it.

"No reconstruction or submission, but perpetual independence.

"An unbroken front to the common enemy; but timely and repeated negotiations for peace by the proper authorities.

"No separate State action through a convention, no counter revolution, no combined resistance to the government.

"Opposition to despotism in every form and the preservation of our republican institutions in all their purity." [179]

After he perceived that his power with the mass of the people was departing Mr. Holden attempted to win the support of prominent political leaders and men of property. But here his past record, by contrast with that of his opponent, was sufficient to blight his aspirations. The old leaders had been willing to make use of him, but they neither respected nor trusted him, and so declined to support him. R. P. Dick, Thomas Settle and Alfred Dockery were the only men of prominence in the State who supported him.

Mr. Holden had great difficulty in justifying his change of opinion regarding Governor Vance. Consistency, however, was never one of Holden's virtues and he usually laid no claim to it. But, in this case, he assumed that a change had taken place in the governor's actions and declared that he had "made his bed with the Destructives" and was entirely controlled by a clique composed of Thomas Bragg, H. K. Burgwyn and George Little, and, consequently, although he had been elected as a peace candidate, was eager for war. Accordingly Holden declared the issue now to be simply war or peace.[181]

During the campaign the legislature met for a session of two weeks. The governor, in his message, took ground against

[179] Raleigh Conservative, May 4, 1864. This paper was regarded as the organ of the State administration.

[180] Alfred Dockery said he would support Mr. Holden as a peace man, but that he had no confidence in him. Fayetteville Observer, July 25, 1864.

[181] Mr. Holden headed his editorial sheet with the following: "The

the suspension of the writ of *habeas corpus* and advised them to lay down what they considered a fair basis for peace, warning them against efforts that might be made to treat with the State individually. The only law of importance passed was one to secure the benefit of the writ of *habeas corpus* and to prevent the transportation of citizens by violence beyond the limits of the State.[182] Resolutions were adopted declaring it the duty of the Confederate government, after some signal success, to treat for peace on the basis of independence. A vote of confidence in the President was passed, and he was declared with the Senate to have the sole treaty-making power.[183] Governor Vance was also endorsed, only five votes in both houses being cast against the resolution.[184] Resolutions protesting against the suspension of the *habeas corpus* and declaring that North Carolina did not consent to it, against the Conscript Act and against the restrictions on importations imposed by the Secretary of the Treasury, were also passed. A resolution declaring the exemption of State officers from military service was passed as a protest against the change made by the Confederate Congress. The people were urged to co-operate and bring about harmony by abandoning all party feuds.[185]

During the session four members of the House[186] made statements that they had heard Mr. Holden say that it was the plan

Two Ways: Fight it Out. *Zebulon B. Vance, Governor of North Carolina.* 'Wisdom's ways are ways of pleasantness, and all her paths are *Peace.*' *Solomon, Son of David, King of Israel.*" Standard, April 6, 1864.

[182] Laws 1863-4, Chap. 11.

[183] The first article passed the House 62 to 19, and the second 79 to 0. The vote in the Senate was not recorded.

[184] The Vance and Davis resolutions were at first joined, but the friends of the former wanted a better vote and separated them. Standard, June 1, 1864.

[185] Resolutions, 1863-4.

[186] Messrs. Horton, Hampton, Gentry, and Welborn.

of his party for the legislature to call a convention to take the State out of the Confederacy. Mr. Dick and his other supporters had denied any such thought or purpose, claiming that the only object of a convention was to begin negotiations with other Southern States and to make valid any acts of Congress which might be unconstitutional.[187] About the same time Dr. Leach, who, after Mr. Holden, was the most active member of the peace party, introduced in Congress a set of peace resolutions. They were not considered at all, being immediately tabled, though every member from North Carolina, except B. S. Gaither and R. R. Bridgers, voted against their being so disposed of.[188]

Meanwhile the gubernatorial campaign dragged on without interesting developments until July, when great excitement was caused by the discovery of the existence of a secret and treasonable political society, known as "The Heroes of America."[189] Its object was to protect those who favored a return to the Union and to increase their number as much as possible. There were three degrees, and the initiated had numerous signs and signals by which they might recognize one another. The usual name given them and used also by themselves was "Red Strings," derived from the badge of the society, which was to be worn in the lapel of the coat. The idea was suggested by a well known Scriptural story.[190] The extension of the society had been largely carried on by ministers and other non-combatants. The revelation of its existence and purpose was made by a minister in Caswell county.[191] He had joined, ignorant of its nature, and when he saw its designs, he made the whole

[187] R. P. Dick in Greensboro Patriot, February 18, 1864.

[188] Conservative, June 1, 1864.

[189] The Conservative of July 6, 1864, first called attention to the existence of the society. Most of the confessions were made to the editor of the paper.

[190] Joshua, ii, 18.

[191] Rev. Orrin Churchill.

thing public. The society was widespread and in constant communication with the North. It was, naturally, ardent in its support of Mr. Holden, and orders were issued to members to vote for him as aiding their cause and as a member.[192] One confession led to another, and within two weeks a very large number announced their withdrawal from membership. Mr. Holden ridiculed the idea of its existence, but the dread it produced probably lost him many votes. He was accused of being in the pay of the North,[193] and this was believed by many.

The election in the army came first, and Governor Vance received a very large majority—13,209 out of 15,033 votes cast. Evidently the "Red Strings" had only a small army membership.[194] The election in the State followed, and Mr. Holden carried only two counties—Randolph and Johnston. Out of a total vote of 72,561 Governor Vance had a majority of 43,579. Mr. Holden made accusations of fraud and intimidation, but did not press the matter, recognizing that, even if his charges were well founded, which was a matter of doubt, there was little possibility of securing redress.[195] He issued an address to the people, declaring himself a friend of the State and Confederate governments and desirous of a vigorous prosecution of the war, at the same time favoring every effort for peace on honorable terms.[196]

[192] This information was gathered from the various confessions made at the time and published, and from the statements made to the writer by living members of the society.

[193] Greensboro Patriot, July 21, 1864.

[194] The Greensboro Patriot said that many votes were lost to Mr. Holden by no provision being made for ballot boxes in the woods, where most of his military supporters were hiding.

[195] A careful examination of the records and the newspapers and conversations with participants in the election have failed to show the existence of fraud. Without question, voting for Mr. Holden subjected one to violent unpopularity.

[196] Standard, August 17, 1864.

Governor Vance called the Council of State into session early in October. He then expected the end of the war to come in the last days of 1864. He urged prompt assistance to General Lee, and suggested that there were many State officers that might well be put into service. He also mentioned that he had called a meeting of the governors of the States east of the Mississippi, in Augusta, Georgia, to agree upon some uniform plan of action. He asked for authority to call a special session of the legislature immediately after this meeting, but the council unanimously refused.[197]

The meeting of the governors was held with no particular result of importance, except that the possibility of any separate State action was made more remote than ever. Resolutions were passed calling for a vigorous prosecution of the war,[198] and after some discussion the meeting adjourned.

In the State the autumn was gloomy, with no outlook for any brighter future. Depression was everywhere, for much of the energy of the State was exhausted. Such a large proportion of her citizens were in the military service that a lifeless condition at home followed. The conscript law, in spite of its unpopularity, had been more thoroughly enforced than in any other State.[199] In the mountains deserters from the State, and also from South Carolina, Georgia and Tennessee, had assembled, and in some localities had driven away the inhabitants who were in sympathy with the Confederacy. Federal officers were seen among them, and in the early part of the year, in accordance with a suggestion of General Sherman,[200] a regiment was raised by George W. Kirk, who commanded it.[201]

197 Council of State Records, pp. 161-2.
198 Off. Rec. No. 89, pp. 1149-50.
199 President Davis's speech at Greensboro, October, 1864.
200 Off. Rec., No. 77, p. 233-4.
201 Ibid, No. 89, pp. 1251-4; No. 59, p. 741.

The governor's message to the legislature recommended that the age limit for military service be raised to fifty-five years, and that more power be given to him as commander-in-chief. Both these recommendations were adopted in part.[202] The governor was authorized to ship $200,000 worth of cotton and tobacco to be applied to the necessities of the North Carolina prisoners at the North. Resolutions were adopted protesting against arming the slaves and against any legislation by Congress regarding the writ of *habeas corpus;* but on the other hand it was formally declared to be the purpose of the State to continue the war vigorously. In secret session four commissioners were appointed to visit Richmond and confer with the President upon the condition of the country.[203] As a result of a combination to defeat the Holden candidate, Thos. S. Ashe was elected over Edwin G. Reade to succeed W. T. Dortch in the Confederate Senate.

Although the war party, since the election, was again in the ascendant, the opposition was not silenced altogether. During the session of the legislature John Pool introduced in the Senate a series of peace resolutions which provided for commissioners to meet those from other States and to act upon instructions from the President. These were referred to a committee, from which two reports were made. That of the majority favored the adoption of the resolutions. The minority opposed adoption, declaring that the State, while it remained a member of the Confederacy, could not form such an agreement with the other States as was proposed by the resolutions. A sharp debate followed, resulting in the tabling of the resolutions.[204] In the House a resolution introduced by L. Q. Sharpe, declaring the right of individual State action, met a similar

[202] Laws, 1864-5, Chap. 20.

[203] Raleigh Confederate, February 15, 1865. This paper was the successor of the State Journal as the organ of the Confederate administration.

[204] The vote on tabling was : to 20.

fate.[205] A bill for calling a convention was also introduced but never acted on.

In Congress the majority of the North Carolina members were constantly urging that the President should make propositions for peace. In December Dr. Leach introduced in the House of Representatives resolutions declaring that secession had taken place in an unguarded moment and without deliberation, and that when the United States should recognize the reserved rights of the States, the Confederacy should treat for peace on any terms that the commissioners of both might agree upon. On a motion to reject all present voted in the affirmative except six of the North Carolina members.[206] Three of these immediately asked leave to change their vote, as they had only voted that way out of consideration for a colleague.[207] Later in the session the resolutions were introduced and considered in secret session.[208]

The fall of Fort Fisher and the consequent capture of Wilmington convinced many that there was no need of any further movement toward peace, for it would come without aid in North Carolina. Some talk of a convention again began, but without any effect. Governor Vance still addressed the people urging unity of action, and public meetings were held in various counties, pledging support to the Confederacy.[209]

After the failure of the Hampton Roads conference Mr. Graham, who was at the time president *pro tem* of the Confederate Senate, and who had been instrumental in bringing about the conference, was one of the committee which inter-

[205] McPherson, History of the Rebellion, p. 619. The vote was 52 to 50.

[206] T. C. Fuller, J. M. Leach, J. T. Leach, J. G. Ramsey, G. W. Logan, and Josiah Turner.

[207] Fuller, Ramsey, and J. M. Leach.

[208] Conservative, February 1, 1865.

[209] Such meetings were held in Wayne, Chatham, Wake, Granville, Cabarrus, Halifax, Mecklenburg, Gaston, Rowan, and Davidson counties.

viewed the President regarding it. Afterwards he gave notice in the Senate that he would introduce a resolution to open negotiations with the United States, but for some reason, probably perceiving its uselessness, he never did so.

The most of the people at home, with all hope of the success of the Confederate cause gone, waited for the end to come with no thought of the constitutional and political questions which were therein involved.

6. *Financial and Economic Conditions in War.*

When the ordinance of secession was passed the total bonded indebtedness of the State was $11,119,500. The annual interest on this sum amounted to $667,170. There was also an endorsement of railroad bonds to the amount of $150,000.[210] The greater part of the debt had been contracted for internal improvements, and all of it had been made since 1849, the last of the bonds maturing in 1890. Before January, 1866, $364,000 would fall due. During the early years of the war more bonds were issued for internal improvements, amounting to $1,619,000.[211] Of this amount $420,000 was issued under acts passed before May 20, 1861. To offset this indebtedness the State held bonds and stocks of corporations[212] to the value of $9,297,664.88.

Before the meeting of the convention the legislature authorized three issues of treasury notes, amounting to $2,000,000, and three issues to the banks of six per cent bonds to the amount of $2,250,000. The issues of notes and bonds were to

[210] The bonds were endorsed for the Wilmington & Weldon R. R.

[211] This was for the benefit of the Chatham R. R., Western R. R., Western North Carolina R. R., and the Wilmington, Charlotte and Rutherford R. R.

[212] Bonds were held of the Western R. R., Wilmington, Charlotte and Rutherford R. R., and the Atlantic and N. C. R. R. Stocks were held of the Western, Atlantic & N. C. R. R., Raleigh and Gaston R. R. and North Carolina R. R., and in the Albemarle and Chesapeake canal.

alternate. Banks were relieved of specie payment while the State owed this debt.[213] At the second extra session of the legislature issues of $800,000, in notes of small denominations, and $1,000,000 in large were authorized. The treasurer was forbidden to receive in payment of public dues the bills or notes of any bank that should refuse to receive treasury notes as currency. Holders of notes were allowed to exchange them at any time for six per cent bonds.[214] In December, 1862, issues of $1,500,000, in bills of small denominations, and $3,000,000 in large were provided for, redeemable January, 1866, and fundable only in twenty-year bonds, bearing interest at six per cent.[215] In July, 1863, Confederate notes, without regard to the date of issue, were made payable for taxes, and the treasurer and other State officers were directed to fund such notes in seven per cent Confederate bonds.[216] In December the treasurer was directed, in case of a deficit, to sell six per cent thirty year bonds not to exceed $2,000,000, and also to issue $400,000 in small notes.[217] The following May an additional issue of notes to the amount of $3,000,000 was provided for.[218] In December, 1864, it was enacted that all future treasury notes, including those re-issued, should be payable in 1876.[219] At the same session the treasurer was directed to pay the debt of the State, becoming due in 1865, in bonds.[220]

The convention, in the meantime, had authorized the issue after March, 1862, of $3,200,000 in notes, redeemable in 1866, subject to a change of date by the General Assembly. Included in the same act was provision for a loan, not to exceed

213 Laws, first extra session, 1861, Chap. 4.
214 Ibid, second extra session, 1861, Chap. 18.
215 Ibid, 1862-3, Chap. 29.
216 Ibid., Ex. Sess., 1863, Chap. 12.
217 Ibid., Adjourned Sess., 1863, Chap. 26.
218 Ibid., Adjourned Sess., 1864, Chap. 18.
219 Ibid., 1864-5, Chap. 23.
220 Ibid., 1864-5, Chap. 2.

$3,000,000, including the amount already borrowed from the banks, and the issue therefor of bonds bearing interest at six per cent payable in twelve months and redeemable at such a time and on such terms as the treasurer might see fit to impose. Banks which had loaned their *pro rata* share, and whose charter forbade the issue of notes of small denominations, were authorized to make such issues. Specie payment should not be required as long as the debt remained unpaid.[221] In December an issue of $3,000,000 in notes was provided for, bearing six per cent interest and payable in 1865. These were receivable at any time for debts due the State at the treasury. They were also fundable in thirty-year, six per cent bonds. None were to be re-issued, but new ones issued in their place not to exceed the original amount.[222] The interest-bearing feature was later repealed.[223] In February, 1862, provision was made for funding any of the treasury notes issued under ordinance of convention, in eight per cent, twenty-year bonds, or in six per cent thirty-year bonds. The notes so funded could be re-issued. The treasurer was also authorized if necessary to issue further $2,500,000 in notes, payable in 1866.[224]

In the war period, thus, a total of $20,400,000 in treasury notes was authorized, and of this $8,507,847.50 had been issued, $3,261,511.25 being withdrawn later, leaving in circulation at the close of the war $5,246,326.25. Bonds were issued to the amount of $13,121,500.[225] After deducting the unsold bonds in England, those redeemed, and those in the sinking fund, the balance was $9,119,000. Unpaid interest and similar items made the total war debt, including treasury notes and internal improvement bonds, $16,596,485.61. But corporation bonds amounting to $6,800,000 were held as a partial offset to this.[226]

221 Ordinances No. 34.

222 Ibid, second session, No. 16.

223 Ibid., third session, No. 2.

224 Ibid, No. 35.

225 Treasurer's report, January 19, 1866.

226 These bonds were of the city of Raleigh and the R. & G. R. R.

In addition to the State debt individual counties owed a sum estimated in 1864 at $20,000,000.[227] This debt had been contracted by the county courts, chiefly to provide for the destitute families of soldiers. Their acts were legalized by the legislature in 1861.[228]

The financial legislation of the period is thus seen to be complex, not because it was part of an elaborate financial scheme, but from its numerous contradictions, its multiplicity of acts and its slip-shod methods. But at the same time it must be remembered that it was not the work of trained financiers but of unskilled men who were suddenly compelled to make "bricks without straw." The fact that two separate bodies were enacting financial legislation at the same time was also, in part, a cause of lack of method. One thing can be said of it: It bears eloquent witness to the confidence felt in the State officers.

The banks of the State suspended specie payments in November, 1860. Resumption, as has been seen, was delayed until the State debt should be paid. In May, 1861, the banks agreed to lend the State twenty per cent of their capital stock. This proportion, in most cases, was largely increased later.[229] Bank-note extension never went so far in North Carolina as in the other Southern States,[230] and consequently depreciation was less. But Confederate currency fell in value to such an extent that the legislature in 1863, attempting to raise it, passed a resolution pledging that the State would resist any attempt to repudiate it.[231] Naturally, with such an immense volume of currency, depreciation began soon in the State's notes as

[227] Standard, June 28, 1864. Schwab, Confederate States of America, 1861-1865, p. 307.

[228] Act of May 11, 1861.

[229] Schwab, Confederate States of America, p. 128.

[230] Ibid, p. 131.

[231] Resolutions, called session 1863, p. 19.

well. This continued until the end of the war.[232] At the beginning of the war the banks had more than a million dollars in specie,[233] and at the close still had $800,000.[234]

The State assumed the Confederate tax and levied a special tax to pay it. This was never fully collected. The payment to the Confederate government was in excess of what was due and the State was later reimbursed. The Confederacy also paid it about $8,000,000 for supplies for the army. The State expenditures for military purposes to November, 1864, were nearly twenty millions.

The military stores were obtained, for the most part, from Europe by means of blockade-runners. In 1862 General J. G. Martin suggested that the State should purchase and operate a vessel of its own. In spite of opposition[235] the plan was

[232] After the war a table of depreciation was adopted. While it is necessarily imperfect, it gives some idea of the progress of depreciation. It was,

Months.	1861.	1862.	1863.	1864.	1865.
January,	.....	$1.20	$3.00	$21.00	$50.00
February,	.....	1.30	3.00	21.00	50.00
March,	.....	1.50	4.00	23.00	60.00
April,	.....	1.50	5.00	20.00	100.00
May,	.....	1.50	5.50	19.00	.....
June,	.....	1.50	6.50	18.00	.....
July,	.....	1.50	9.00	21.00	.....
August,	.....	1.50	14.00	23.00	.....
September,	.....	2.00	14.00	25.00	.....
October,	.....	2.00	14.00	26.00	.....
November,	$1.10	2.50	15.00	30.00	.....
December,	1.15	2.50	20.00	.....	.....
Dec. 1st to 10th,	.....	.....	.....	35.00	.....
Dec. 10th to 20th,	.....	.....	.....	42.00	.....
Dec. 20th to 30th,	.....	.....	.....	49.00	.....

This table is found in Laws, 1866, Chap. 39.

[233] Report of Finance Committee, 1861.

[234] Governor Worth's message, 1865.

[235] B. F. Moore opposed it as unconstitutional. Mr. Holden also opposed it for political reasons.

adopted and the vessel was purchased for $190,000 and paid for with cotton without drawing on the treasury. The "Ad-Vance," as the vessel was named, was an English vessel, built for passenger service and described by Governor Vance as "long-legged." It could carry eight hundred bales of cotton and a double supply of coal. Thus it was able to bring from Bermuda enough Welsh coal for the return voyage. Eleven successful trips were made. After the fifth trip Governor Vance sold a half-interest for $130,000, with which he redeemed State bonds. The vessel was finally lost through the act of the captain of the Confederate cruiser Tallahassee. Being short of coal he took from the "Ad-Vance" her extra supply. This obliged her to make her outward trip with North Carolina coal, which reduced her speed, left a trail of smoke, and made her fall a victim to the Federal blockaders.[236] The State also had an interest in the "Hansa" and the "Don." Their use, however, was abandoned on account of the excessive charge made by the Confederate government, one-half of each cargo being seized. Through the use of these vessels an immense amount of valuable stores was imported. No entirely accurate figures can be obtained as to the amount, but Governor Vance said in 1885[237] that he had distributed large quantities of machinery, 60,000 pairs of hand wool cards, 10,000 scythes, 200 barrels of bluestone for fertilizing wheat, 250,000 pairs of shoes, 50,000 blankets, cloth for 250,000 uniforms, 12,000 overcoats, 2,000 Enfield rifles with 100 rounds of ammunition each, 100,000 pounds of bacon, 500 sacks of coffee, $50,000 worth of medicines at gold prices, and an immense supply of minor stores. Through this means the North Carolina troops were clothed.

The State taxes were increased several times during the war. The tax on real estate in 1861 was one-fifth of 1 per cent, and in 1863 it was two-fifths of 1 per cent, and in 1864 was 1 per

[236] Governor's message, 1864.

[237] Speech at Baltimore. A more accurate and detailed account is in the Confederate of June 28, 1864.

cent. The revenue, consequently, more than doubled in amount, but in specie value fell one-third in 1862 and one-half in 1863.[238] The revenue acts show a decided extension. That of 1862 included a graduated inheritance tax on all amounts exceeding $100, and also an income tax.[239] Of all the taxes, the Confederate tax in kind bore most heavily and was, consequently, the most unpopular. To it North Carolina was one of the largest contributors. No accurate record can be found of the entire amount of produce collected. By June, 1864, 3,000,000 pounds of bacon, 75,000 tons of hay and fodder, 770,000 bushels of wheat, besides other produce valued at $150,000 had been collected.[240] For the other Confederate taxes, the State paid, by 1864, $10,000,000.

During the years immediately preceding the war, many of the newspapers and a few of the leading men had advocated taking steps towards the commercial independence of the South. But the plan went no further than suggestion before hostilities commenced. In 1860, the manufacturing interests of the State were of but slight importance. There were 39 cotton factories, all of them small. Of the seven woollen mills, only two, at Rock Island and Salem, were of any importance. Iron was worked to a small extent, but the total capital invested was only $200,000, and this was distributed among more than thirty plants. Of every kind there were only 3,689 manufacturing establishments in the State, and out of a population of 992,622, only 14,217 were employed in these factories.[241] It is true that home manufacture supplied many of the domestic needs, but this was of small aid in solving the economic problems which the war imposed.

The State was even without an adequate source for a supply of salt, and this early occupied the attention of the convention. An ordinance was passed, providing for the election of a com-

[238] Schwab, Confederate States of America, p. 303.

[239] Laws, 1862-3, Chap. 57.

[240] Schwab, Confederate States of America, p. 297.

[241] The figures were obtained from the census of 1860.

missioner to manufacture salt and sell it to the people at cost price.[242] A later ordinance gave the commissioner power to purchase land for salt works, and if necessary, seize it under the right of eminent domain.[243] The same act exempted from military service all persons under contract to make salt. This remained in force until 1864, when General Whiting broke up the salt works and conscripted the employees.[244] In 1862, the governor was directed to employ in the works, Quakers who could not pay the exemption fee of $100.[245] Dr. John M. Worth was appointed commissioner. He was later succeeded by D. G. Worth. The first works were at Morehead City and were captured by the enemy before they were well in operation. Works were then located near Wilmington, and were producing 250 bushels per day when yellow fever broke out. The work was later resumed and carried on, with some interruptions, until the capture of Wilmington. The works were raided by the Federal troops in 1864, but with little damage. During the year 66,100 bushels of salt were made and sold at $7.75, when the market price at Wilmington was $19. Before the end of the year, the price was raised to $13, the market price rising to $25. By March, 1865, the market price in Raleigh was $70. The works were entirely self-supporting and paid back the original outlay. The State was also interested in the works at Saltville, Virginia. In addition to the State works, it was estimated that private individuals made about 2,500 bushels a day. Most of this was carried to other States for speculation.[246] The value of the salt works cannot be fully realized, unless the conditions existing in the army and in some of the other States where no provision for a supply was made, are remembered.

242 Ordinances, second session, No. 8.
243 Ibid, third session, No. 18.
244 Worth Letters (unpublished).
245 Ordinances, fourth session, p. 164.
246 Governor's message, 1864. Report of Salt Commissioner, 1864.

The danger of speculation was another thing which early attracted attention. Prices of the necessaries of life began to rise during the first year of the war and soon reached a speculative point. The *Standard* was particularly and justly abusive of the speculators and promised to keep a "Roll of Dishonor" for publication at the close of the war.[247] To lessen the evil, Governor Clark, acting under the advice of the Council of State, proclaimed an embargo upon the exportation of certain supplies from the State, except for the use of the State or Confederate governments.[248] An extension of this was made a few weeks later.[249] The convention, at its second session, made speculation in the necessaries of life a misdemeanor.[250] This was evidently inoperative for some reason, and the legislature at various times during the war considered the matter. One law was enacted prohibiting the practice,[251] but it seems to have been utterly futile. Governor Vance had recommended its passage and at the same time placed an embargo on the necessaries of life for thirty days.[252]

Prices rose steadily as the war progressed.[253] A board of

[247] Standard, October 2, November 20, 1861, et seq.

[248] Register, September 25, 1861.

[249] Ibid, October 9, 1861.

[250] Ordinances, second session, p. 75.

[251] Laws, 1862-3, Chap. 56.

[252] Off. Rec., No. 128, p. 214.

[253] The following table, gathered from the Raleigh market reports, gives a good idea of the rise of prices on various articles:

Article.	Price, Sept. 15, 1862.	June 8, 1863.	Aug. 29, 1864.	March 27, 1865.
Bacon, per pound,	$0.33	$1.00	$5.50	$7.50
Beef, per pound,	.12	.50	2.50	3.00
Corn, per bushel,	1.10	5.50	20.00	30.00
Meal, per bushel,	1.25	5.50	20.00	30.00
Coffee, per pound,	2.50	None	15.00	40.00
Eggs, per dozen,	.30	1.75	1.40	5.00
Fowls, each,	.40	1.50	3.00	6.00
Lard, per pound,	.30	1.00	5.50	7.50

appraisement was appointed to value articles for purchase by the government, but their prices were far below the market. Every two months a new schedule of prices was published for the information of the people.

Many families had every male member in the army and no other means of support but their labor. The pay of a private, or for that matter, of an officer, in the Confederate army, was not sufficient for the support of one person, and consequently widespread distress soon appeared. In and around Raleigh, everyone could get a living by working in the factories and hospitals. But this only affected a small part of the population. Early in his administration, Governor Vance saw the condition which would arise, and took immediate steps to prevent suffering so far as possible. He asked Mr. Edwards to assemble the convention to consider what plan should be adopted to relieve distress, but this request was refused for some unknown reason. At the governor's recommendation, the legislature authorized him to purchase and store provisions to sell to the poor at cost.[254] A large quantity was purchased in the fall of 1862, but only a small part was needed, as the crops were unusually good.[255] But the value of the plan was seen in the later years of the war, when the crops were smaller and food more scarce. One great cause of the distress in the State was the lack of facilities for transportation. This often kept supplies from

Article.	Price, Sept. 15, 1862.	June 8, 1863.	Aug. 29, 1864.	March 27, 1865.
Molasses, per gallon,	3.00	10.00	25.00	25.00
Potatoes, per bushel,	1.00	4.00	7.00	30.00
Sweet potatoes, per bushel,	1.50	5.00	6.00	35.00
Wheat, per bushel,	3.00	8.00	25.00	50.00
Flour, per barrel,	18.00	35.00	125.00	500.00
Pork, per pound,	.....	1.60	4.00	5.50
Sugar, per pound,	.75	1.60	12.00	30.00
Brandy or whiskey, per gal.,	5.00	20.00	40.00	100.00

254 Laws, 1862-3, Chap. 15.

255 Governor's message, November, 1863.

being sent where they were most needed. There were portions of the State where the amount of suffering was very slight. The few records that remain of the tithe collection, show that in many places the crops were good and food abundant. But impressment and foraging by detachments of Confederate troops, and the foraging and destruction by the enemy, in the eastern and western portions of the State, led to the loss of a great part. Governor Vance sent frequent and bitter complaints to Secretary Seddon. In one of his letters, he said: "If God Alminghty had yet in store another plague for the Egyptians, worse than all others, I am sure it must have been a regiment or so of half-armed, half-disciplined Confederate cavalry."[256] Another cause of just complaint was the bringing of large numbers of worn-out horses to the western part of the State to recuperate. There, they were turned loose, and in the absence of fences caused immense damage to the growing crops. Complaints to Richmond, however, brought no redress and no cessation of the nuisance.[257]

A great cause of suffering was the lack of drugs. Such as were used were mostly of home manufacture. The "Ad-Vance" brought in large quantities, but nearly all were sent to the front or used in the military hospitals in the State. Sickness, as might be expected, was very frequent. Smallpox existed in many neighborhoods and the lesser epidemics were everywhere. In 1862, Wilmington was visited by a virulent type of yellow fever which in two months caused 441 deaths. The total number of cases was 1,505.[258] New Bern also had a sharp epidemic of yellow fever, but it was during Federal occupation and no statistics are available.

In May, 1861, the legislature passed a stay law. This was declared unconstitutional by the Supreme Court, and was re-

[256] Vance to Seddon, December 1, 1863.

[257] Laws, second session, 1861, Chap. 11.

[258] Ibid., 1863, Chap. 51.

pealed in September and another passed.[259] This prevented executions being issued in civil suits. In 1863, the provisions of the statute of limitations were extended for civil matters by omitting the period from May 20th to the end of the war.

By 1865, the State was, in an economic sense, almost prostrate. The end of the war thus averted much suffering that would have followed had hostilities continued longer.

[259] The following extract from The Last Ninety Days of the War gives an excellent idea of the condition of the portion of the population that had been wealthy before the war: "In North Carolina families of the highest respectability and refinement lived for months on corn bread, sorghum, and peas. Meat was seldom on the table, tea and coffee never; dried apples and peaches were a luxury. Children went barefoot through the winter, and ladies made their own shoes and wove their own homespuns; carpets were cut into blankets, and window curtains and sheets were torn up for hospital use; soldiers' socks were knit day and night, while for home service, clothes were turned twice and patches were patched again."

CHAPTER II.

The Beginnings of Reconstruction During the War.

No sooner had the Federal troops gained a foothold in the State than efforts were made to gather together such of the people as favored the cause of the Union and such as were dissatisfied with the Confederacy, by means of the establishment of a new State government around which they might rally. Two such attempts were made, both unsuccessful. In the first instance, the movement professed to originate within the State. Although it was sponsored by the Federal military forces, it was designed to form a civil government. The second was avowedly military and had its origin in an order from the President of the United States.

I. The Hatteras Convention and Government.

The fall of Fort Hatteras and the capture of Hatteras Inlet by the Federal fleet and forces under General B. F. Butler in 1861, gave an opportunity for the first enterprise. Certain persons who were disloyal to the State government began a movement, avowedly intended to restore the State to the Union, but really designed, as the sequel indicated, chiefly to promote their own interests.

The population of Hyde and Washington counties was sparse and was almost entirely unprotected from the invading forces. Practically all of the male population who were in sympathy with the Confederacy, were in the army. Those at home were Unionists in feeling, partly through genuine dislike of the war and a desire to avoid military service for the Confederacy, and partly also by fear of the Federal forces, at whose mercy they were placed on account of the lack of any adequate coast defence.

Almost immediately after the capture of the Inlet, Colonel Rush C. Hawkins, of the Ninth New York Volunteers, was approached by some of the inhabitants who had taken flight at the approach of the Federal fleet, and asked to grant them permission to return to their homes, as they had taken no part against the United States and had no desire to do so. At his suggestion about thirty took the oath of allegiance and promised to keep the commander of the Federal forces informed of the movements of the Confederates. In return they were promised protection. Within a week, two hundred and fifty persons had taken the oath under similar conditions. They declared that secret meetings were being held in all the counties bordering on Pamlico Sound and that fear alone prevented the people from openly avowing their Union sentiments.[1] Colonel Hawkins, in his report, suggested the possibility of a convention of the State being called by the people under the protection of the Federal forces, through which, he thought, a third of the State would be at once restored to the Union. In order to forward a movement of this kind, as fast as the inhabitants took the oath they were sent across the sound to act as spies and to test opinion there. Their reports led him to believe that it would be productive of good results to enlist North Carolina volunteers for service in the State. He suggested that, as a pledge of good intentions, the government should pay for the property which had been plundered and destroyed by Federal troops, not amounting in all, he thought, to more than $5,000, and also provide the inhabitants with food and clothing.[2] He was greatly hindered in his progress towards pacification by the depredations of the 20th New York Regiment and threatened their commanding officer, Colonel Weber, with the use of artillery against them if a stop was not put to it.[3]

[1] Off. Rec., No. 4, p. 608.
[2] Ibid, pp. 608-9.
[3] Ibid., No. 4, p. 610.

Acting upon his suggestions, President Lincoln, in September, wrote General Scott, requesting him to frame an order for recruiting North Carolina volunteers at Fort Hatteras. He left it with General Scott to decide about the officers, but said Secretary Seward thought his nephew, Clarence Seward, "would be willing to go and play colonel and assist in raising the force."[4] In accordance with this, the acceptance of North Carolina volunteers, not to exceed one regiment, was authorized. On September 17th, Colonel Hawkins, in order to clear the minds of the people of prejudice against the Federal forces, issued a proclamation, addressed to the people of North Carolina, declaring as the purpose of the invasion the relief of the loyal people of the State from "rebels and traitors," and calling upon the people to return to their allegiance to the United States.[5] He scattered copies of this proclamation through all the country along Pamlico Sound and sent them to various inland towns. Almost immediately, the State authorities became aware of it, but Governor Clark, while alarmed at the reports which reached him, was unable to do anything which would remedy matters. Judge Biggs, of the Confederate Court, wrote General R. C. Gatlin, who commanded the Confederate forces in the East, that he was doubtful if a majority of the population of Washington county could be depended on, in case of invasion, and that while few were openly disloyal, the sentiment in Tyrrell and Beaufort was such as to cause grave uneasiness.[6] This was the condition of affairs when the self-constituted leaders of Union sentiment in eastern North Carolina began the movement which, it was hoped, would result in the restoration of the State to the Union.

These leaders were Charles Henry Foster and Marble Nash Taylor. Comparatively little is known of either of them. Taylor was a Methodist minister, a native of the "Pan-Handle" of

[4] Off. Rec., No. 4, p. 613.
[5] Ibid, pp. 658-9.
[6] Ibid, p. 671.

Virginia, who was with the Confederate troops at Hatteras. He joined the Federal forces before the capture and was accused, whether falsely or not, of giving information to them which contributed to the ease with which victory was obtained. In a letter to a brother-in-law in Cumberland county, where he himself had formerly lived, he said that he had been compelled by the force of circumstances to side with the Union.[7]

Charles Henry Foster was a native of Maine and a graduate of Bowdoin College. He had first come South in the employ of some land company, and in 1860 was editor of a Breckenridge newspaper in Murfreesboro.[8] He was, apparently, in favor of secession, but after the fall of Sumter, his attitude made the people suspicious, and he was expelled from the town by a public meeting of the citizens. He appealed to Governor Ellis for permission to remain in the State and, through the efforts of friends, the vote was rescinded. He in the meantime had declared his good intentions.[9] But in November he had succeeded in reaching New York, and in company with Taylor attended a large meeting at which Mr. George Bancroft presided, which was held for the assistance and encouragement of the proposed new administration in North Carolina.[10] The plan of action was largely mapped out there and the State Department was notified of their intentions by Foster, who stated that all the North Carolinians in New York, who were loyal to the Union, favored the plan and that it was hoped and expected that it would largely increase the Union sentiment in the State. He also said that six counties would be represented in the convention, which had already been called, and that while

[7] Western Democrat, October 1, 1861.

[8] New Bern Progress, December 12, 1861.

[9] Register, May 21, 1862. He stated in a letter that his oath as a Knight of the Golden Circle would prevent his taking sides against the South.

[10] New York Tribune, November 8, 1861.

the Unionists of the western part of the State had desired that the movement should begin there, they had agreed to the plan as formed and would ratify all the acts of the new administration. No change in the laws and constitution of the State, as they were in April, 1861, was intended. The proposed government would have authority with a majority of the freemen of the State, and when "rebel intimidation" was disposed of, it would be recognized by 60,000 men, since all the great mining, railroad, and other business interests of the State were committed to the plan.[11]

The so-called convention of the people met, November 18th, at Hatteras. The minutes of the meeting name forty-five counties as represented. Only six or eight persons, however, composed the convention, Taylor and Foster holding what they called proxies for the rest of the counties named. These so-called proxies were authorized by no meetings of citizens, but merely by individuals, who, in most instances, lived in other States.[12]

By an ordinance, Taylor was proclaimed provisional governor, and another declared the ordinance of secession null and void and instructed the governor to issue a call for an election of members of Congress.[13] He took the oath of office before a justice of the peace, and two days later issued the proclamation. The election was held and Foster received all the votes cast. He, accordingly, presented himself in Washington, as a member from either the first or the second district. The matter was referred to a committee, which reported unfavorably, and in

[11] Off. Rec. No. 122, pp. 630-1.

[12] The following is one of the proxies:

"Lima, N. Y., November 15, 1861.

Dear Sir:—I address you this line to request you to represent the Union men of Onslow County, North Carolina, in the State convention to organize a provincial government, having once been a resident of the county and knowing something of the feeling there existing.

Rev. M. N. Taylor. I am, respectively,

J. W. BAILEY."

[13] House Mis. Docs., No. 2, 37th Cong., 2nd Sess.

December a resolution was passed declaring him not entitled to a seat from either of the districts named.[14] He was not discouraged and another similar election was held January 16th, at which he again received all the votes. A large number of memorials requesting his admission were sent to Congress, and, in the meantime, for some reason, possibly because he feared his case was weak, another election was held January 30th, with the same result. Later, he claimed that this was a postponement from the 16th. Taylor, as a private citizen, then petitioned Congress to order an election, and Foster requested the same thing.

The voting in all the elections was in Hyde county only. The memorials ratifying his election were, in several cases, signed in only one or two handwritings, and when he appeared before the committee on elections, he could give only a very inadequate explanation of the fact, but claimed that he had been rightfully, if not legally, elected. He made no claim for the existence, *de facto* or *de jure*, of the Hatteras government, but urged that the Union men of North Carolina should be recognized by Congress. He was forced to acknowledge that only about four hundred citizens of the district had expressed their approval of his claim, although its voting population was over nine thousand. The chief basis for his claim was the precedent set by the admission of Maynard and Clements from Tennessee, who had been elected in somewhat the same way.[15] His claim was so poorly supported and his statements so contradictory that the resolution declaring him not entitled to a seat passed with no opposition. An attempt made to compensate him as a contestant failed.

And so ended the first attempt at reconstruction.[16]

[14] House Mis. Docs., No. 15, 37th Cong., 2nd Sess.

[15] House Reports, No. 118, 37th Cong., 2nd Sess.

[16] Taylor became a newspaper correspondent. Foster was later captain of a company of colored troops. In 1868, he was defeated for the convention.

II. The Administration of Edward Stanly.

The second attempt at reconstruction was begun May 19, 1862, when President Lincoln, as commander-in-chief of the army, appointed Edward Stanly military governor, with the rank of brigadier general. Unlike all the other nominations of this kind, this was never sent to the Senate for confirmation.[17] He was empowered to perform all the duties of governor, and to appoint officers, institute courts, and suspend the writ of *habeas corpus,* during the pleasure of the President, or until a civil government should be organized.[18]

A general belief prevailed in the North that there was so strong a Union sentiment in North Carolina that, with a capable leader, the State could soon be reclaimed for the Union. So far as devotion to the Union was concerned, Edward Stanly was a most suitable choice to "foster Union sentiment."[19] He was born in North Carolina in 1808 and had attained great prominence there. He had been three times a member of the House of Commons and twice had been Speaker. He had also been a representative in Congress, where he had been very influential. In addition, he had served one term as attorney-general of the State. He had removed to California in 1853 and in 1857, although a believer in slavery and a slaveholder himself, had been nominated by the Republicans there for governor, but was defeated. He was a man of high and uncontrolled temper and was noted for his bitter denunciation of political opponents. He made many warm friends, but as many equally bitter enemies, and was consequently ill adapted for a conciliatory mission. The fact that he was a native only made his task more difficult.

The day after his appointment, Secretary Stanton notified him of his duties and ordered General Burnside to co-operate with

[17] House Reports, No. 7, (testimony) p. 885, 40th Cong., 1st Sess.

[18] Off. Rec., No. 9, p. 396.

[19] So expressed by Hon. John S. Ely of New York, in a letter to Stanly.

him and furnish any military assistance that might be necessary.[20] Governor Stanly arrived in New Bern, May 26th. General Burnside was at first, seemingly, doubtful of their relations,[21] but later was thoroughly in sympathy with his policy.[22] No sooner had he reached North Carolina than Stanly, in seeking to conciliate the people and to execute the State laws, made himself an object of dislike and suspicion to the element in Congress and at the North to whom the chief purpose of the war was the abolition of slavery with all its concomitants. An enthusiastic gentleman from New England had established a school for negro children in New Bern. Concerning this Stanly announced that while he approved of kindness to the destitute, black or white, he had been sent there to restore the old order of things and, consequently, could not give his approval of the school, as it would injure the Union cause. He consented that such religious instruction might be given as was thought best. Apart from this, he said that the laws of North Carolina forbade the teaching of slaves to read and write, and he could not expect success in his undertaking, if, at the start, he encouraged violation of the law. Consequently, he demanded the closing of the school. In respect to fugitive slaves, also, Stanly took like ground. Slaves were constantly leaving their masters and coming into the Union lines, and in many instances they were taken away by the soldiers and notified that they were free. Whenever the owners would take the oath of allegiance to the United States, Stanly had the slaves restored to them.[23] He also threatened with confiscation the owners of vessels who carried off slaves.[24]

H. H. Helper, who held a civil position in New Bern, wrote a letter to Stanly offering some advice as to how he should execute the duties of his office. Stanly resented it and ordered Helper to leave New Bern. He at once went North,

[20] Off. Rec., No. 9, p. 397.
[21] Ibid, p. 394.
[22] Ibid, p. 403.
[23] Ibid., p. 400.
[24] Correspondence of N. Y. Herald, of May 31st, 1862.

in company with Mr. Colyer, the gentleman whose school had been closed, and furnished the newspapers with a highly-colored account of Stanly's official actions. This led to sharp criticism of the governor and to the accusation that he was in sympathy with the South. On June 3rd the House of Representatives passed a resolution asking the President to furnish information as to the powers conferred upon Stanly by his appointment, whether he had interfered to prevent the education of children, black or white, and if so, by what authority. If by the authority of the government, for what purpose were such instructions given? Similar resolutions were also passed in the Senate.[25] Secretary Stanton referred the matter to Stanly, who at once replied outlining his policy and asking for instructions. The following points on which he desired instructions show the difficulties he had to meet almost daily: "When slaves are taken violently from loyal owners by armed men and negroes, what protection can be given for the future? When persons connected with the army cause slaves to leave their masters, can the latter, if loyal, have permission and protection to prevail on them to return? Will authority be given to prevent the removal of slave property by vessel without the consent of the owners? If the military governor should interfere with actions that are in violation of long-established laws of the State, and persons connected with the army should make inflammatory appeals to a crowd composed of several hundred negroes, exhorting them to violence and bloodshed, what action should he take to prevent its recurrence? When slaves of loyal owners are employed by the United States authorities, can any steps be taken to secure a part of their earnings for their owners?" [26]

It is apparent that there was a decided difference of opinion between the governor and the officers commanding in North Carolina, for in April General Parke had notified citizens of

[25] Sen. Journal, pp. 553, 566. [26] Off. Rec., No. 9, pp. 401-2.

Beaufort, who had appealed to him to prevent slaves from coming into his lines, that he would not use force to aid owners in their recovery, but would only allow them to use persuasion.[27] General Burnside had also adopted the policy, almost necessarily, it is true, of never returning any escaped slaves to their owners.[28] In addition to these difficulties Stanly was beginning to discover that a difference had arisen between himself and those with whom he had been intimately associated in the past and that Union sentiment was at a minimum in North Carolina. Even in New Bern, occupied as it was by Federal troops, very little appeared.[29] This change of sentiment, since the time when he lived in North Carolina before, had not been comprehended by him when he came back to the State and seemed inexplicable.

In the hope of arousing some feeling he visited the various towns in which he was well known and which were now occupied by the Federal forces and made speeches.[30] But he accomplished little for the Union cause, for he was generally regarded with hatred and suspicion as a traitor to his State, and this kept from him the support of all men of character and influence. For a time the Federal officers in the State thought he would be of great benefit to the Union cause, but this feeling disappeared when his policy was clearly seen.[31]

The policy of the State government and of the Confederate officers was to ignore Stanly's pretensions to the office of governor and to communicate officially only with General Burnside.[32] In the fall of 1862 Stanly wrote to Governor Vance and asked for an interview with him or with any citizens of the State that he might select. He said that he felt sure that North Carolina was in the quarrel only through a misunderstanding, and he wished to confer in regard to measures that might lead to an honorable peace; that he was authorized to negotiate an

[27] Off. Rec., No. 9, p. 382.
[28] Ibid, p. 390.
[29] Ibid, p. 409.
[30] Western Sentinel, June 27, 1862.
[31] Off. Rec., No. 9, p. 397.
[32] Executive Letters, Clark, p. 337.

exchange of political prisoners and wished this interview with its object to be perfectly open. Governor Vance declined the proposal[33] on the ground that he was without authority from the Confederate government to treat for peace and that separate State action was not to be thought of.[34] A correspondence with General D. H. Hill and General S. G. French did not lead to any more hope of reconciliation, but, if possible, rendered it more unlikely, since Stanly provoked indignation by the violence of his language.

He was greatly handicapped in his peaceful efforts by the operations of the Federal troops in the eastern part of the State. His argument that they were "a glorious army of noble patriots" lost its significance in view of their constant plundering and burning, and his protests against this were without avail. General Burnside, when he first landed in the State, had forbidden all unnecessary injury to the property or persons of the inhabitants,[35] but when General Foster assumed command no attention was paid to this order.[36] Stanly's last official act was a protest against the conduct of the troops in Hyde county.[37] The condition of the "loyal" population was thus pitiful. Cut off from Confederate protection, partly by circumstances and still more by their own acts, their "loyalty" insured

[33] Mr. Holden said in 1867, that on his advice, Governor Vance would have consented to treat with Stanly for peace, but was prevented by W. A. Graham. As the statement was made in a political attack upon the latter, it is not worthy of credit. Standard, January 16, 1867. .

[34] The correspondence will be found in Off. Rec., No. 123, pp. 845-9. Governor Vance ignored Stanly's military title and Stanly himself wrote as a private citizen.

[35] Off. Rec., No. 9, p. 359.

[36] General Foster's course was very different from that of most of the Federal officers in the State. In 1863, he gave his approval to a plan for beginning a general slave insurrection. Off. Rec., No. 26, pp. 1068-9.

[37] Ibid, p. 182.

them no immunity from outrage and violence at the hands of the Federal troops.

In December Stanly ordered an election to be held for a member of Congress from the second district. Jennings Pigott, a native of the State who had been a resident of Washington City for many years, and had only returned as Stanly's private secretary, was chosen. Charles H. Foster contested the election but neither was seated.[38]

In the meantime Stanly had become convinced of the hopelessness of his mission. More than that he was utterly out of sympathy with the policy of the administration in regard to the slaves. He protested against the enlisting and drilling of them on the ground that subordinate military officers were unfit to decide when their condition was suitable in the meaning of the President's proclamation, and because it created a danger of a servile war.[39] Finally, January 15, 1863, he sent his resignation to the President, giving at the same time the reason for his action. He stated that he had assured the people of the State that the administration was only trying to restore the Union and would secure the rights of the people. But since the emancipation proclamation any further assurance of the kind was impossible. Regarding the proclamation he said, "It is enough to say I fear it will do infinite mischief. It crushes all hope of making peace by any conciliatory measures. It will fill the hearts of Union men with despair and strengthen the hands of the detestable traitors whose mad ambition has spread desolation and sorrow over our country. To the negroes themselves it will bring the most direful calamities." He reviewed his course as military governor and said concerning this, "That I have offended some is probable; but they were those whose schemes of plunder I defeated—whose oppressions of the innocent and helpless I resisted—whose purposes seemed to have

[38] Contested elections, p. 462. House Mis. 39th Cong., 2nd Sess. Globe, pp. 1209-12.

[39] Off. Rec., No. 26, p. 525.

been to join or follow the troops and to encourage and participate in the most shameful pillaging and robbery that ever disgraced an army in any civilized land." [40]

His resignation was accepted in March and he returned to California. No successor was appointed. In the State it was thought that Daniel R. Goodloe, a North Carolina abolitionist, would be appointed, but the position probably seemed to the President a very useless one. In 1864 Mr. Stanly wrote the President that he had been asked to return to the State and that when he was needed in his private capacity he was ready to go.[41] But no occasion for his services ever arose.

The second attempt at reconstruction had ended as disastrously as the first, so far as the progress of Union sentiment was concerned.[42] It remained for the military forces of the United States to begin the final and ultimately successful attempt when all resistance in the State to the authority of the United States was at an end.

3. The Downfall of the State Government.

The fall of Richmond and the steady advance of the Federal army on the State capital showed that the end of the struggle was at hand. It was clear that no effective opposition to Sherman's advance could be made, and preparations were begun to save what little remained unhurt in the State, particularly the property of the State.

Ex-Governor Swain, from his retirement at Chapel Hill, entered into correspondence with Mr. Graham and Governor Vance. Perceiving the impossibility of a meeting of the legislature in time to be of service, he suggested that Governor

[40] House Report No. 7, (testimony) pp. 331-2.

[41] Governor Stanly, after his return to California, opposed the radical policy of Congress, and in 1867, canvassed the State against the Republican candidate for governor. He died in 1872.

[42] Stanly was of infinite service to the people of New Bern as a protector against injury.

Vance should hold a conference with the former governors of the State as to the best course to follow.[43] Mr. Graham had been convinced ever since his return from Richmond at the close of the session of Congress that the Confederate cause was hopeless and also that, as long as supplies for the army could be obtained by the administration, the war would be continued. Consequently he thought it the duty of the State administration to attempt to make as good terms as possible with the Federal forces. In any event he thought it best that the legislature should be in session and ready to act when it should be necessary. He accordingly advised Governor Vance to this effect. Then, in conference with Mr. Swain, Mr. Graham worked out a complete plan of action: the General Assembly should be summoned and should pass resolutions expressing a desire for peace and inviting the other Southern States to join the movement; commissioners should be elected to treat with the United States and report to a convention which should at once be called, and in the meantime a commission should treat with General Sherman for a suspension of hostilities.

Mr. Graham had warned Governor Vance that the North Carolina members of the Confederate House of Representatives, or most of them, were ready to call the legislature by advertisement. But the governor was still doubtful of the wisdom of the proposed plan. He did finally summon the Council of State, but only a bare quorum was present and the vote on the question submitted to them resulted in a tie. The governor then refused to issue the summons to the legislature. But when the plan matured by Graham and Swain was laid before him by the latter and when it became evident that General Sherman would occupy the capital in a few days he yielded, and after consulting General Johnston decided to send for Mr. Graham and discuss the question of treating with the enemy. The conference was held and a letter to General Sherman prepared, asking for an

[43] Of these, Swain, Graham, Morehead, Manly, Reid, Bragg, and Clark were still living.

interview regarding the suspension of hostilities.[44] General Johnston in the meantime had retired westward; but before he left Raleigh he advised Governor Vance to make the best terms possible.[45] Ex-Governor Bragg, B. F. Moore and Kenneth Rayner were consulted and agreed to the plan. General Hardee was present at the conference and gave Messrs. Graham and Swain, who agreed to act as commissioners, a safe conduct through the lines.[46]

In Raleigh there was great excitement but very little disorder. The inhabitants were busy concealing valuables in the hope that they might escape the usual fate of movable property along the line of march of Sherman's army. A large number of houses in Fayetteville had been burned and it was greatly feared that Raleigh would not escape. The legislature, at its last session, had authorized the removal of all the State records and cases had been made for that purpose. The Council of State, at a meeting in March, decided that the governor and treasurer or one of them should take the records away if it became necessary. They were now placed in the care of Treasurer Worth and carried to Company Shops, a small place in Alamance county. At the same time an immense quantity of supplies belonging to the State was distributed along the line of the North Carolina Railroad between Raleigh and Salisbury. Governor Vance remained in Raleigh to hear the result of the conference with Sherman, in doubt whether to continue there or to retreat with the army as he was urged to do.

The same day General Archer Anderson notified President Davis that commissioners were going to Sherman with proposals for peace, and at the same time ordered General Hampton not to allow them to pass. Governor Vance also notified President Davis of the fact. General Johnston then directed General Hampton to arrest the members of the deputation, and

[44] Off. Rec., No. 100, p. 178.

[45] Dowd, Life of Vance, p. 483.

[46] Spencer, Last Ninety Days of the War, pp. 142-4.

to allow no communication with the enemy, except by flag of truce. In the meantime the commissioners, accompanied by three members of the governor's staff,[47] had left Raleigh to meet General Sherman who was about fourteen miles distant. When they had gone some distance from Raleigh they were stopped by General Hampton, who was unwilling to pass them but could not refuse to obey General Hardee's order. Consequently, after some delay, he passed them and sent a courier to General Sherman with communications from himself and from the commissioners. They had hardly started when the order came from General Johnston for them to return to Raleigh. They were again stopped and turned back, but on the way to Raleigh the train was captured by the Federal General Atkins and the commissioners carried to General Kilpatrick's headquarters. There they received the first news of Lee's surrender. They were from there sent to General Sherman, who treated them with every courtesy and with whom they remained until the next day.[48] He requested them to inform the governor that, in accordance with his instructions from the President, he wished the State officers to continue in the performance of their duties until he could communicate with President Lincoln.[49] He also replied to Governor Vance's letter stating that it was impossible to give him an interview at the time, but enclosed a safe conduct for himself and such State officers as would remain in Raleigh.[50]

When the commissioners, on their return, reached Raleigh, they found that Governor Vance, who in the meantime had almost decided to remain in Raleigh, had again changed his mind and had gone to Hillsboro with General Hoke, who

[47] These were Surgeon-General Warren, Colonel Burr, and Major Devereux.

[48] Spencer, Last Ninety Days of the War, pp. 145-55.

[49] Sherman's Memoirs, Vol. II, pp. 327, 345.

[50] Off. Rec., No. 100, pp. 178-9.

passed through Raleigh that day.[51] Before his departure he had authorized the mayor to surrender the city and had written a letter to General Sherman asking his protection for the capital and the State property.

The next day the city was surrendered by a committee of citizens, and the keys of the capitol were delivered by Mr. Swain to an officer of the Federal army.[52]

Another safe conduct was then sent to Governor Vance, but he declined to return before seeing President Davis, who had summoned him to Greensboro. General Breckenridge invited him to be present at the conference with General Sherman, but for some reason he was excluded and went on to Greensboro. There he begged permission of the Confederate authorities to accept General Sherman's offer of protection for the State property which was in great danger at the Shops, and to send it back to Raleigh in the care of Mr. Worth. This General Breckenridge refused to allow. From Greensboro Governor Vance followed President Davis to Charlotte, where he had a conference with him. Mr. Davis intimated that he wished Vance to accompany him in the retreat, but General Breckenridge interfered, advising him to return to his position and its duties.[53] This he resolved to do, and accordingly sent Mr. Worth to Raleigh with a letter to General Sherman in which he volunteered to return, summon the legislature and recommend its calling a convention.[54] But General Sherman had left Raleigh and General Schofield, refusing to see Governor Vance, instructed Mr. Worth to bring the records to Raleigh.

Negotiations had been going on in the meantime between Johnston and Sherman in regard to the terms of surrender.

[51] Only with great difficulty did Governor Vance decide what course to pursue. Mr. Worth entreated him to remain and surrender the capitol himself, but the influence of the Confederate officers probably caused his decision to retreat.

[52] Spencer, Last Ninety Days of the War, p. 162.

[53] Dowd, Life of Vance, p. 486.

[54] Letter from Jonathan Worth to the Sentinel, October 28, 1865.

During the progress of the negotiations Governor Vance suggested to the former that if they were successful he should turn over the army stores to North Carolina in part payment of the debt owed to the State by the Confederate government. He stated as an additional reason for doing so that the soldiers in Johnston's army had taken possession of much of the State property. General Johnston declined to accede to the request and denied that his soldiers had been guilty of plundering the State.[55] When the terms of surrender had been agreed upon and General Schofield came to Greensboro, Governor Vance asked his protection for the State property and offered to surrender himself, but General Schofield, in accordance with his instructions, refused to receive his surrender and advised him to go home.[56] Governor Vance then requested that William A. Graham, John A. Gilmer and Bedford Brown might go to Washington. By the President's order this was refused.[57] Governor Vance then went home and remained there until May 14th, when he was arrested by the President's order, carried to Washington and confined in Old Capitol Prison. Just before going home he issued an address to the people urging them to abstain from violence of any kind and pledging himself to do all he could to restore the civil authority.[58]

The capture of Raleigh on April 13th was accompanied by very little disorder. Private property, in most instances, was respected, though this was by no means always the case.[59] The offices and property of the *Confederate* and *Conservative* newspapers were immediately destroyed. A few days later General Sherman ordered the *Progress* to suspend publication for criticism of some act of his. Later he allowed its publication to continue. When the news of President Lincoln's assassination came there was great fear in Raleigh that revenge would be taken by the soldiers upon the town, a fear that was shared by

[55] Off. Rec., No. 111, pp. 419-20.
[56] Ibid, No. 100, p. 426.
[57] Ibid, pp. 395, 404, 432.
[58] Standard, May 3, 1865.
[59] Spencer, Last Ninety Days of the War, pp. 174, et seq.

the officers.[60] The guards were doubled and every precaution taken and no violence followed.

There was a great deal of destitution in the city, and this was relieved, in part, by the action of the military authorities in furnishing rations to those in want. The place was crowded with negroes who had followed the army or come in from the adjoining country, and these were entirely supported by the rations issued. The policy was adopted of making them return to their homes whenever possible, but this was attended with great difficulty. Similar conditions, as regards both races, existed in the other towns of the State. In Wilmington there was probably greater destitution.

General Sherman was anxious to make use of the existing State government for the purpose of re-organization, but the authorities at Washington prevented him. His wish was well known and members of the legislature appealed to him to allow them to meet in Raleigh and arrange for holding a session. Of course this request was refused.[61]

Early in May General Schofield succeeded him in command of the State. The disturbances arising from the end of the war and the disbanding of the armies were great, and his efforts to bring quiet at first met with very little success. Proclamations were issued announcing the definitive cessation of hostilities and, in order to remove all doubt, the freedom of the slaves.[62] The taking of the oath of allegiance was hastened by making it a prerequisite for the practice of a profession or for engaging in any business. Nor could marriage licenses be issued until

[60] Gen. F. P. Blair, who was staying at the residence of Dr. R. B. Haywood, gave him a suit of his own uniform, telling him it might be necessary for him to become a Union general instead of a Confederate surgeon. It is a matter of tradition in Raleigh that General Logan saved the city from being burned by stopping the soldiers who were coming in for the purpose.

[61] Off. Rec., No. 100, pp. 254, 272.

[62] General Orders, Nos. 31 and 32.

the oath had been taken by both parties.[63] The towns were soon quiet, but the country was not. Nor were the inhabitants altogether to blame; for the Federal troops did not soon shake off the habits formed during the war, and even after the proclamation of the final cessation of hostilities the plundering and wanton destruction of property continued, often accompanied by outrage and violence.[64] This, however, was the exception, and not the rule. The disbanded Confederate soldiers, particularly the cavalry, foraged to some extent as they went home. But their opportunities were not so great and their sympathy, naturally, greater.

To put an end to this condition of affairs General Schofield began the organization of a police force for each county,[65] detailing General J. D. Cox for the work in the western part of the State, General Terry for the central and Generals Hawley and Palmer for the eastern. They were instructed to have bodies of troops visit all portions of the State and arrest marauders.[66] General Schofield also had the oath of allegiance administered to certain magistrates of known Union sympathies and left them in the exercise of their functions.[67] Prompt justice was meted out to offenders, in and out of the army, whenever it was possible,[68] and whenever the troops showed disorganization they were mustered out.[69] Every effort was used to have the restrictions on trade removed, for the commander felt that peace would be more quickly restored when destitution, resulting from the abnormal conditions, was removed, and the people employed in their usual occupations. He also opposed the rulings of the Treasury Department in regard to trade.[70]

63 General Orders, No. 52.

64 Off. Rec., No. 100, pp. 330, et seq. Last Ninety Days of the War, p. 43 et seq.

65 Off. Rec., No. 100, pp. 460, 522, et seq.

66 General Orders, No. 35.

67 Off. Rec., No. 100, p. 610 et seq.

68 Ibid, p. 470.

69 Ibid, p. 609.

70 Ibid, p. 593.

The delay in making known the policy of the government regarding re-organization of the civil government was considered very unfortunate by General Schofield, since he was convinced that the people of the State were well disposed and were ready to make and accept any necessary changes.[71] For the re-organization he desired the appointment of a military governor who should declare the Constitution of the State as it existed previous to secession in force, and appoint officers to serve until the work was completed. An enrollment should then be made of all citizens qualified to vote by State law, after administration of the amnesty oath. A convention should be called and its action submitted to the people. He was anxious to be selected as military governor for North Carolina, provided some such plan as this was adopted, but if negro suffrage was to be included he preferred to have no part in it.[72] General Halleck recommended him for the position but later withdrew his endorsement on the ground that he could not recommend anyone who had advised Sherman to make the terms which had been proposed with Johnston.[73] General Schofield's measure for pacification and conciliation, meanwhile, were meeting with such success that when he applied for leave, early in June, he said that the presence of troops in the State seemed almost unnecessary.[74] His conduct of affairs met with the hearty approval of his superiors,[75] and, in every way, he deserved and received the cordial gratitude of the people of the State.

[71] Off. Rec., No. 100, pp. 405, 411.
[72] Ibid., pp. 461-3.
[73] Ibid, pp. 434, 454.
[74] Ibid, p. 513.
[75] Ibid, p. 586.

CHAPTER III.

PRESIDENTIAL RECONSTRUCTION.

1. The Provisional Government.

On May 9, 1865, the President summoned W. W. Holden to Washington for a conference. He was detained and did not reach there until the 18th. In the meantime D. L. Swain, B. F. Moore and William Eaton had also been summoned.[1] In company with John H. Wheeler the latter were received by the President, who showed them the proclamation which had already been prepared, containing the plan for the restoration of North Carolina. Mr. Moore at once objected and urged its unconstitutionality. He desired the President to allow the legislature to meet and call a convention. General Sherman had promised transportation for the members on the military lines in the State, and it could be accomplished very quickly. The President took the ground that the body had no legal status, and asked further what he could do if, after recognition by him, it should refuse to conform to the terms deemed necessary. Mr. Moore assured him that there was "no one of that body who might not be led back into the Union with a silken thread." In the discussion he grew very caustic, particularly so in stating his objection to the appointment of the governor by the President and the calling of a convention without the intervention of the legislature. The President was very good-natured, but was unchangeable in his opinion and plan.

The day after their interview with the President they returned to the White House at his invitation and found another party from North Carolina present. It was made up of those that Mr. Holden had brought with him.[2] The Presi-

[1] Off. Rec., No. 100, pp. 489.

[2] The members of the party, besides Mr. Holden, were R. P. Dick, Willie Jones, W. R. Richardson, J. H. P. Russ, W. S. Mason, Rev. Thos. Skinner, and Dr. R. J. Powell. The latter was a native of the State, holding a position in the Patent Office.

dent laid before them the amnesty proclamation and the North Carolina proclamation, leaving blank in the latter the name of the provisional governor, saying that he would appoint the person they should nominate. Moore, Swain and Eaton declined to take any part in the proceedings and left the room as did the President. Mr. Holden's name was inserted by those remaining and the President, on his return, expressed himself as much gratified at their choice and duly made the appointment.[3]

It is an interesting speculation as to who would have been appointed by President Lincoln. The North Carolina proclamation had been prepared the day of his assassination,[4] and it is, at least, likely that he had some one in mind for the position. It is hardly likely that it would have been Mr. Holden.[5] His appointment was the one that President Johnson would have been expected to make, for there was much to make him appear to the President the most suitable man for the position. Between Johnson and Holden there was the bond of like social origin and like political opinions in the past, and this fact coupled with their old friendship and communication during the war makes it probable that Holden was the choice of the President and that his nomination by the committee was only a matter of form. At any rate it was certain that the members of the delegation selected with three exceptions by Mr. Holden, would choose him.

[3] The account of the interviews with the President is in Wheeler's Reminiscences, p. 60 et seq. It is interesting to know that among the candidates for provisional governor was George W. Kirk, already notorious for his part in the border warfare in the West, and destined to become again famous, or rather infamous, in the Reconstruction history of the State. Spencer, Last Ninety Days of the War, p. 229.

[4] McCulloch, Men and Measures of Half a Century, p. 378.

[5] The late D. F. Caldwell, of Guilford, stated that he had authoritative information that President Lincoln had considered his name and that of Jonathan Worth, and had finally decided upon the latter for the position. The author has been unable to find any other evidence substantiating this or, in fact, any contradicting it.

President Johnson, formally, began his policy of reconstruction on May 29th by issuing a proclamation granting general amnesty and pardon to those who had been engaged in rebellion against the authority of the United States. This restored rights of property except in slaves and except when legal proceedings for confiscation had been instituted. An oath was provided to be taken by all accepting the benefits of the proclamation. It was as follows: "I....do solemnly swear, (or affirm), in the presence of Almighty God, that I will henceforth faithfully support, protect and defend the Constitution of the United States and the Union of the States thereunder; and that I will in like manner abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves. So help me God." Fourteen classes of persons were excepted from the benefits of this proclamation. These included the executive and diplomatic officers of the Confederacy, those who left the service of the United States to aid the Confederacy, the governors of the States in insurrection, all military and naval officers in the Confederate service whose rank was above that of colonel and lieutenant, respectively, and all who voluntarily took part in rebellion whose taxable property exceeded in value $20,000. Any person belonging to an excepted class could make application to the President for a special pardon, and a promise of liberal executive clemency was extended. The Secretary of State was directed to establish rules for the administration of the oath.

The same day the President issued another proclamation appointing William W. Holden provisional governor of North Carolina. This was the first of a series of similar proclamations for the other Southern States. It was based upon the war power of the President as commander-in-chief. It gave the provisional governor so appointed power to prescribe the necessary rules for calling and assembling a convention whose dele-

gates should be chosen by the portion of the population that was loyal to the United States at that time when it should be called. This convention was given authority to exercise all powers necessary to restore the State to her constitutional relations with the Federal government, and present such a Republican form of government as would entitle the State to the guarantee of the United States against invasion, insurrection and domestic violence. It was directed to prescribe qualifications for electors and for holders of office. The proclamation itself prescribed as qualifications for electors and delegates to the convention that they should have taken the amnesty oath as provided in the President's proclamation, and that they should be voters qualified by the State Constitution in force previous to May 20, 1861. All persons in the military and naval service were directed to aid the provisional governor and enjoined from hindering and discouraging the loyal people from organizing a State government. The Secretary of State was directed to put in force in the State the laws of the United States, the administration of which belonged to his department. The Secretary of the Treasury was instructed to nominate officials and put in execution the revenue laws. The postmaster-general was directed to establish post-offices and post routes and put the postal laws in execution. The district judge was directed to hold courts within the State, and the attorney-general was instructed to enforce, through the proper officers, the administration of justice in all matters within the jurisdiction of the Federal courts, and to libel and bring to judgment, confiscation and sale all property subject to confiscation. The heads of the departments of the Navy and Interior were given instructions similar to the others.

Secretary Seward formally notified Governor Holden of his appointment the same day the proclamation was issued. For some reason he was not required to take the "iron-clad" oath as were the other provisional governors. The appointment was

announced to the State through the *Standard* a week later, and, at the same time, Mr. Holden retired from the nominal editorial control of the paper.

As might be imagined the appointment was not received in the State with unmixed gratification. It had been the hope of the majority that some man might be chosen who was without the bitter enmity of so large a proportion of the people. But after it was a settled fact there seems to have been a general disposition to give Holden a fair chance, both from a desire to support the President and from policy. But though the feeling against him was hidden, it was no less intense.

On June 12th Governor Holden issued a proclamation which had first been submitted to the President for approval. After a summary of the President's North Carolina proclamation the governor outlined his policy. He stated that a call would soon be issued for a convention of the people, which would provide for the election of a governor and legislature. That the latter would elect two United States Senators, and a general election would also be held for members of Congress. He announced that, in conformity with the rules established by Secretary Seward, he would appoint justices of the peace to administer the amnesty oath, and through subordinates hold the election for delegates to the convention. These justices would be further authorized to hold county courts and appoint sheriffs and clerks. Other necessary officers would be appointed by the provisional governor to serve until the meeting of the convention. He invited the loyal people of the State to assist him by taking an interest in public affairs, by discouraging disloyal sentiment, and by electing to office friends of the Federal government. He devoted some space to violent abuse of the Confederate government, congratulating the people on their deliverance from it. The latter part of the proclamation contained good and kindly advice to the colored people of the State, with a promise of assistance from the government and the peo-

ple wherever it was deserved. He closed with a declaration of "charity for all, with malice towards none."

Beginning soon after the close of hostilities a series of Union meetings were held in the State. Of these there were two distinct types. In one class, which was numerically the smaller, there was manifested an inclination to win favor at the North by violent abuse of the Confederacy and its leaders, in oblivion, apparently, of the fact that four years before many, if not the majority, of those who prompted this policy had been enthusiastic members of the "last man and last dollar" party. The majority of the meetings, however, passed resolutions simply acknowledging that the war had been a failure, expressing gratification at the return of peace, and declaring a desire to return to full allegiance to the United States.

Governor Holden moved very slowly and carefully in carrying out the work of re-organization. This was made necessary by the duties of his position which, at the time, were enormously increased by the thousands of applications for pardon and by the necessity of appointing magistrates and other officers. The delay in calling a convention caused extreme dissatisfaction in the State, and criticism, which was hardly just, followed.

The governor's action regarding pardons admitted of and caused better-founded criticism. He recommended the pardon of a large number of original secessionists and war men, and advised the suspension of the pardon of such men as William A. Graham, John A. Gilmer, Josiah Turner, John M. Morehead and many others who had striven against secession and for the Union until hostilities had actually commenced. This, naturally, gave great offense to the latter and their friends. No other adequate reason than personal prejudice can be found for this action.[6] In spite of his recommendation to the con-

[6] In his unpublished memoirs, written many years afterwards, Gov. Holden said it was to protect the President from pardoning too many prominent "rebels," and because he thought Graham and Turner were not sufficiently in sympathy with him.

trary a pardon was granted to ex-Governor Bragg.[7] Ex-Governor Clark made application for pardon and was told by Governor Holden that he would oppose its being granted, as he would, under no circumstances, recommend or approve Vance's pardon, and if he should make any discrimination it would give Vance's friends ground for attacking him. The application was never forwarded to Washington, and was found in the office by Governor Worth during the following winter.[8] In other ways not calculated to win friends Governor Holden used the power he had in obtaining pardons.[9]

To assist him in communicating with the President Governor Holden appointed Dr. R. J. Powell agent of the State in Washington. Through him the president was informed of the governor's opinion of the various petitioners apart from his formal endorsement. All the applications were referred by the President to the attorney-general for investigation.[10] On several occasions pardons were issued without the approval of Governor Holden. Mr. George Mordecai and Dr. W. G. Hawkins, both prominent in Raleigh in a business way, went to Washington and were unable to find any trace of their applications for pardon in Mr. Speed's office. At his suggestion they filed

[7] Trinity College Historical Papers, Series III, pp. 103-5.

[8] Executive Letters, Worth, Vol. I, pp. 234-5.

[9] The following correspondence gives an example of this:

"Weldon, N. C., Sept. 18, 1865.

To Mr. Hanes,
Secretary to Governor Holden.

Why have I not been pardoned as well as John B. Odom, J. W. Newsom, Samuel Calvert, and others? THOS. I. PERSON.

"Raleigh, September, 18, 1865.

To Thos. I. Person, Weldon, N. C.

Sir:—Your despatch received. The governor instructs me to say that Mr. Odom's pardon has not been received but will be received in time for him to take his seat in the convention. Also that the pardon of those who may take part against Mr. Odom and Dr. Barrow for the convention in Northampton will be delayed. L. HANES,
Private Secretary."

[10] Record of the Provisional Governor, p. 123.

new ones which the President signed. Governor Holden had advised suspension of pardon in their case and he at once complained to the President, who declined to revoke their pardons, but notified him through Dr. Powell that he might tax them for their pardon as he saw fit.[11] Governor Holden, however, took no action of the kind, but wrote that he was losing ground because pardons were granted for personal reasons when those recommended by him were not acted on.[12] By June 27, 1866, pardons had been issued to citizens of North Carolina to the number of 1912. Of these 1450 bore the recommendation of Governor Holden and 419 of Governor Worth. Most of the latter were made before Governor Worth took office. It is impossible to ascertain how large a number of persons belonged to the classes excepted by the President's proclamation. Over two thousand applications for pardon were forwarded to Washington, but there were many in the excepted classes who did not apply. Of the pardons issued 815 were granted to Confederate postmasters, many of whom had been United States postmasters prior to 1861. 510 came under the thirteenth exception, that is, were worth more than $20,000. The remainder of the pardons in the main were granted to Confederate army officers above the rank of colonel, tax assessors, mail contractors and carriers, members of the legislature and a variety of minor officers. A few who had held high office received pardons and the circumstances under which some were granted are interesting. John A. Gilmer was recommended by a number of his former colleagues in the 36th Congress and by several army officers stationed in North Carolina, including General J. D. Cox. J. C. Washington, who had been a member of the secession convention, was recommended by Mr. Speed, the attorney-general, on condition that he should arrange with the freedmen on his land in a manner satisfactory to the Freedmen's Bureau.

[11] Dr. Powell wrote Gov. Holden that they had been obtained by a pardon broker who was a cousin of the attorney-general.

[12] Executive Letters, Provisional Governor, p. 61.

William A. Graham's pardon was granted, in spite of Governor Holden's request to the contrary, on the recommendation of thirty-eight members of the State Senate and forty-three members of the House.[13]

By the end of July Governor Holden had appointed over three thousand magistrates. He had also appointed mayors and commissioners for the towns.[14] His effort was to fill all these places with Union men. In one instance he declared the action of a county court null and void because, in the past, the county officers appointed by it had been disloyal to the United States. He ordered a new election of officers, appointing at the same time new magistrates, until there was a working majority of those of whose opinions he could be certain.[15] In another case he revoked the commissions of certain magistrates against whom objections were raised. In the same period appointments were made of directors and proxies for the various corporations in which the State had an interest, and of judges and solicitors of the State courts. In almost every instance the appointees had originally been Whigs. R. P. Dick was the only Democrat chosen to a high position. He had been appointed a Federal judge by the President soon after the establishment of the provisional government, but could not take the oath required by law,[16] and after two months' waiting for the repeal of the law, resigned and was made a provisional judge. George W. Brooks was then appointed and qualified.

About this time[17] charges were made at the North that Union men were ignored in the appointments to office made by the provisional governors. The animus of these reports is easy to perceive and was recognized at the time. Ground was given for them regarding North Carolina by the *Progress,* which for

[13] House Ex. Docs., No. 32, 1st Sess. 40th Cong.
[14] Executive Letters, Provisional Governor, p. 20.
[15] Record of the Provisional Governor, p. 139.
[16] Act of March 2nd, 1862.
[17] August, 1865.

a time represented the State as entirely disloyal, and also by the correspondence to the Northern newspapers. The latter painted such a lurid picture of the conditions in the State that suspicion was aroused as to its source. An examination made by Dr. Powell showed that the matter was never telegraphed from North Carolina as was claimed, but was probably written in Washington.[18] In many instances allusions were made to persons as prominent in the State who were unknown there. The President, while not crediting the reports, notified Governor Holden that they were being circulated.[19] Governor Holden was thus attacked at once on both sides, for in the State, in addition to the matter of pardons, many of his appointments were criticised. It certainly cannot be said with justice that he was favorable to the former secession element, unless to those who had changed during the war. Publicly and in private he insisted that they must be content to follow, not lead, in the work of re-organization. His enforcement of the directions contained in the proclamations and orders of the President seems to have been careful and, on the whole, impartial. He refused to allow the unpardoned stockholders of the railroads to take part in the meetings and gave notice that, when a majority of the stock was controlled by such persons, the State would take charge of the corporation's affairs until they had been pardoned.[20] This is a fair type of his action when questions of the kind had to be settled by him.

Throughout this period the governor was giving attention to all the various details of State government, multiplied by the war and the prostration of the people resulting therefrom. Leaving out all question of motive or of action in certain individual cases, his work was well done. He was less proscriptive than might have been expected or, in fact, than was expected when he was appointed, in view of the events of the preceding

[18] Executive Letters, Provisional Governor, pp. 40-2.
[19] Gen. Docs. No. 26, p. 223, 1st Sess. 39th Cong.
[20] Executive Letters, Provisional Governor, p. 73.

five years, and he showed consideration for the feelings of his opponents by securing Vance's release on parole on account of the illness of his wife, and by various other acts to which his kindly nature impelled him.

Finally, on August 8th, he issued a proclamation ordering the election of delegates to a convention to meet October 2nd. Justices of the peace in every county were directed to administer the amnesty oath and provide for holding the election in accordance with law. By his delay in ordering the election he had made it possible for many to vote who, otherwise, would have been disqualified for lack of pardon.

There was very little discussion during the campaign of any issues. The questions of secession and slavery were regarded as definitely settled and only the matter of the war debt remained. It was generally thought that the convention ought not to act upon this at all during the first session, and, beyond some little discussion of the matter in the newspapers, little was said regarding it. The *Standard* published during the campaign, under the heading "Union Landmarks," the following as its policy: "The prompt non-recognition of debts contracted by the State in aid of the rebellion; but an equally prompt determination to pay every cent of the State debt contracted previously to the war." But less than a month later it declared that by non-recognition it meant that the convention should leave the question untouched.[21]

The quiet in politics, which had settled over the State at the close of hostilities, now began to be broken by disagreements between the *Standard* and the *Sentinel.* The latter was a paper established shortly before in Raleigh and edited by William E. Pell, a former assistant of Mr. Holden. It soon began to represent the anti-Holden element which was beginning to appear, and, in fact, was in part responsible for the appearance. It en-

[21] Standard, August 25, 1865. The editorial columns of this paper must be regarded as expressing the views of Governor Holden, as he controlled it actually, if not in name.

dorsed the administration of Governor Holden until after the meeting of the convention, but at times criticised his actions. This was regarded by the *Standard* as amounting to treason and disloyalty to the United States, and it at once made charges that an attempt was being made to revive Confederate issues.

The question of the eligibility of unpardoned persons to seats in the convention was the cause of some discussion. William A. Graham was the choice of Orange county but declined to be a candidate because he had not been pardoned, stating at the same time that he believed that he was eligible. Governor Holden appealed to the President for a decision in the matter and was sustained in his opinion that no person who was unpardoned, and so not a voter, could qualify as a delegate. The President also informed him that any unpardoned person, elected to the convention, would be immediately pardoned upon his recommendation.[22]

The administration of the amnesty oath and preparations for the election were carried on quietly with little question of any kind being raised. Occasionally there were complaints of partiality being shown. In Rutherford county about forty persons were not allowed to take the oath because they were "original war men." They went to Morganton and took it before the military authorities there, but were not allowed to vote at the election in Rutherford.[23]

The election was held peaceably in every part of the State except at Concord, the county-seat of Cabarrus. General Ruger had given orders that on election day no soldier should visit the polls or even leave camp, unless summoned by the civil authorities,[24] and in no instance were they required. The trouble at Concord was caused by the attempt of a party of intoxicated negroes to vote. A Union veteran, who lived in the town, fired

[22] Sen. Docs. No. 26, p. 223, 1st Sess. 39th Cong.

[23] Executive Letters, Provisional Governor, p. 96.

[24] Standard, September 16, 1865.

a pistol into the crowd of freedmen and precipitated a sharp little fight, which, however, had no serious results.[25]

Many persons who were regularly qualified, refused to take any part in the election on the ground that, in every case, the candidates were dictated. This refusal to endorse what was felt to be the dictation of the provisional governor showed what might be the attitude of the State towards him in the fall elections after the convention should have completed the work required of it and adjourned, leaving the government to be carried on directly by the people.

Governor Holden was much gratified at the general result of the election, but greatly chagrined at the defeat of Dr. Leach and Chief Justice Pearson. He assured the President that the ultra Union men or "straitest sect" would control in everything. Eleven persons who had not been pardoned were elected, but on his recommendation they received pardons in time to take their seats.[26]

2. The Convention of 1865.

The convention thus secured by Governor Holden, in accordance with the President's directions, met in Raleigh on the appointed day—October 2nd—and organized by unanimously electing Judge Edwin G. Reade president.[27] Among its members were few who had originally favored secession and none who were very prominently connected with the secession party. Most of them were old Whigs who, while opposed to secession, had submitted to the will of the majority. With these, and among them were many members of the peace party during the war. The delegates were unanimous in their desire to restore the State to normal relations with the Federal gov-

[25] Standard, September 28, 1865.

[26] Sen. Docs. No. 26, 1st Sess. 39th Cong.

[27] An informal ballot had already been held. Nathaniel Boyden received the second largest number of votes in this.

ernment, and this was constantly shown as the session progressed.

As a whole, probably, the body was composed of less able men than the convention of 1861, but it was by no means lacking in ability. Three of its members had also been delegates to the convention of 1835.[28] Twelve had been members of the secession convention.[29] Two had been in the Confederate Congress,[30] and two had been Union rangers. A majority were middle-aged, very few being either very young or very old.[31] The most prominent member and probably the ablest was B. F. Moore, of Wake. His record as a Union sympathizer was unbroken, although he was unable to take the "iron-clad" oath, having been a member of the Board of Claims elected by the convention of 1861. Thomas Settle, Judge George Howard, William Eaton, Nathaniel Boyden, Edward Conigland, D. D. Ferebee, Judge M. E. Manly and Bedford Brown all took a prominent part in the debates and were the leaders of the convention.

Edwin G. Reade, the president, had long been a prominent lawyer in the State. He had served one term in Congress, and while there, in 1856, was the only member from the South who voted to censure Keitt for his part in the assault upon Sumner. In 1861 he was elected a delegate to the convention which the people rejected, but refused to be a candidate for the later one, as he was opposed to secession. He was for a short time a Confederate Senator, and in 1863 was elected a judge of the Superior Court. Governor Holden appointed him a provisional justice of the Supreme Court. He was a most suitable choice for presiding officer and proved a very able one. When

[28] These were Messrs. Faison, Dockery and Gilliam.

[29] These were John Berry, Bedford Brown, R. P. Dick, George Howard, Giles Mebane, R. L. Patterson, R. S. Donnell, A. H. Joyce, E. J. Warren, D. H. Starbuck, and W. A. Smith.

[30] E. G. Reade and G. W. Logan.

[31] Sentinel, November 11, 1865.

he took the chair he made a very eloquent address closing as follows: "Fellow Citizens, we are going home. Let painful reflections upon our late separation and pleasant memories of our early union quicken our footsteps toward the old mansion, that we may grasp hard again the hand of friendship which stands at the door, and sheltered by the old homestead which was built upon a rock and has weathered the storm, enjoy together the long, bright future which awaits us."

The governor's message was brief. He reviewed the President's position in regard to the reconstruction of the Southern States, praising its breadth and liberality and congratulating the members on the favorable conditions under which they met.[32] He alluded to the questions of secession and slavery but made no mention of the disposition of the war debt.

The first subject of discussion by the convention was the abrogation of the ordinance of secession. So far as the end to be obtained was concerned the convention was a unit. Regarding the means a decided difference was noticeable. On the third day Mr. Jones of Rowan introduced an ordinance repealing the ordinance of secession, with a declaration that the convention in no sense endorsed the theory of secession, but wished simply to repeal the ordinance out of consideration for the feelings of their fellow citizens who had believed in it, and from a desire for cordial reconciliation. The same day Mr. Boyden from the committee on the subject reported the following ordinance:

"*Be it ordained by the delegates of the good people of the State of North Carolina in convention assembled, and it is hereby declared and ordained* that the ordinance of the convention of the State of North Carolina, ratified on the 21st day of November, 1789, which adopted the Constitution of the United States, and also all acts and parts of acts of the General Assembly ratifying and adopting amendments to the said Constitution, are now and at all times since the adoption and ratification thereof have been in full force and effect, notwithstand-

[32] Journal, p. 11.

ing the supposed ordinance of the 20th of May, 1861, declaring that the same be repealed, rescinded and abrogated, and the said supposed ordinance is now and hath been at all times, null and void."

Mr. Jones's ordinance was then tabled indefinitely without discussion. The following day Mr. Ferebee offered a substitute, differing in form from the draft reported by the commitee, and, in fact, embodying a compromise between this and the one proposed by Mr. Jones. A sharp debate then followed. The opposition to the committee's draft was led by Judge Howard. He prefaced his speech with a declaration that he had voted heartily for secession but, convinced that it was a failure, he was ready to do all in his power to effect a restoration; that so far as the United States was concerned the ordinance of secession had always been null and void; but to the people of the State it was the charter under which they had acted and carried on a *de facto* government for four years, and he would not wrong them by taking it away. During the period of the war the State, sustaining its action by arms, was to all intents independent, with all the machinery of government in the full exercise of its functions. If the ordinance of secession had no effect, all acts in the period following were null and void. He denied that the military power, while sustaining a theoretical independence of the State had succeeded in making independence actual for any period, and held that consequently opposition to the ordinance under discussion did not mean hostility to a restoration of the Union. Others opposed the proposed ordinance on the ground that it was a reflection on the convention of 1861, and because the convention was by nature a legislative body and not a judicial one.[33]

B. F. Moore, who drew the committee's ordinance, said his main reason for favoring it was that through it the right of citizenship in the United States would be retained, and not otherwise. He did not believe that declaring the ordinance of

[33] Andrews, The South Since the War, pp. 144, 151.

secession null and void would permanently invalidate all acts done during the war, but said that the convention could make them valid by an additional ordinance.[34] A great deal of feeling was shown in the debate by several of those favoring the committee's ordinance. Judge Warren, who voted for the ordinance of secession of 1861, declared that the object of the substitute was to "hoodwink" the convention into an endorsement of secession.[35] Mr. Phillips voiced the sentiment of a large number when he said that as the convention of 1861 had expressed an opinion one way a body of equal rank should register a counter opinion, and as the functions of a convention of the people in its sovereign capacity were both legislative and judicial, it could either repeal or declare null and void the acts of a former body. As secession was a creature of the mind and could not, in consequence, be affected by the success or failure of an army, it was necessary to declare against it.[36]

The substitute was rejected by a vote of 94 to 19.[37] The original was then put upon its second reading and passed with nine still voting in the negative.[38] A few moments later, after some discussion as to whether another reading was necessary, it passed its third reading. Several delegates, including Judge Howard and Mr. McKoy, voted against it, and a still larger number, including Judge Manly and Mr. Ferebee, declined to vote.[39] Secession, already dead in North Carolina for some time past, was legally pronounced never to have had life.

[34] Andrews, The South Since the War, pp. 150-1.

[35] Ibid, p. 151.

[36] Ibid, p. 147.

[37] The following voted nay: Messrs. Alexander, Allen, Brown, Conigland, Eaton, Faison, Ferebee, Hanrahan, Howard, Jarvis, Joyner, Kennedy, Manly, McKoy, McIver, Mebane, Murphy, Ward, Winborne, and Wright.

[38] These were Messrs. Allen, Faison, Ferebee, Howard, Joyner, Manly, McKoy, Murphy and Ward.

[39] Judge Howard relates that Judge Manly and Mr. Ferebee were about to leave the hall before the vote, but stayed with him. Mr.

On October 5th Mr. Settle reported an ordinance forever prohibiting slavery in the State. A few of the members attempted to have the cause of its abolition inserted as a preamble, but the plan failed and, two days later, the ordinance was passed unanimously.[40] It was then provided that both ordinances should be submitted separately to the people at the next election.[41] An amendment was offered to this providing that the people should vote on the question in the words "Secession" or "No Secession" and "Slavery" or "No Slavery." This was purely for political purposes and was resented by those who had opposed the anti-secession ordinance. Judge Howard, in opposing the amendment, attacked bitterly those who never spoke or acted for the Union until the Confederacy fell and then became proscriptive and vindictive.[42] This was aimed at several of the members of the convention and was applicable to many more.[43]

The two great objects of the convention were thus accomplished. There still remained other matters of importance, mainly internal in their nature. These were settled in the next few days by the passage of various ordinances. The election of State and county officers and also of a General Assembly and members of Congress was provided for.[44] To remove doubts as to the validity of official acts after May 20, 1861, all laws consistent with the State and Federal constitutions were declared in full force. Judicial proceedings were also held

Settle was standing in the aisle and suggested a third reading. He turned to Judge Howard and said, "Howard, let it be unanimous. You have already voted." Judge Howard replied with emphasis, "I'll see you ——— first."

[40] Journal, p. 28.

[41] Ordinances, p. 46.

[42] Sentinel, October 25, 1865.

[43] Mr. Andrews, in his South Since the War, declares that he found in the convention much hatred of secession and secessionists, but that it was from political feeling and not from love of the Union, p. 136.

[44] Ordinances, p. 42.

valid and contracts declared binding. In relation to the latter it was made the duty of the General Assembly to provide a scale of depreciation of the currency from the first issue until the end of the war, and all contracts were to be deemed solvable on that basis, unless evidence was produced of a contrary intention at the time the contract was made. All acts of civil and military officers of the State or of the Confederate States, in accordance with law, were declared valid, and such officers were relieved of any penalty for their actions. The acts of the provisional governor and his agents were made valid, and it was provided that all offices created by him should become vacant at the close of the next session of the General Assembly.[45] Offices whose incumbents took the oath of allegiance to the Confederate States, were declared vacant.[46] This produced some debate, as, by a decision of the Supreme Court of North Carolina, it had been held that the holder of an office had a right of property therein.[47] But it was argued that a convention was bound only by the Constitution of the United States, and the ruling of the Supreme Court of the United States on the question differed from that of the State court.[48]

The State was divided into seven congressional districts in preparation for the coming election. Provision was made for the organization of a military police in every county if it should be thought necessary by the sheriff and magistrates. The necessity for this action was strongly urged by Mr. Ferebee and Mr. Dockery, who stated that the white people were unarmed and in a constant state of uneasiness at the presence of many strange negroes, the majority of whom were armed.[49] Some doubt was expressed as to the wisdom of attempting such a thing while the State was under martial law. It was stated,

[45] Ordinances, p. 58.
[46] Ibid, p. 63.
[47] Hoke v. Henderson, 15 N. C., 1.
[48] Butler v. Pennsylvania, 10 Howard, 402.
[49] Annual Cyclopædia, 1865, p. 627.

however, that General Ruger was heartily in favor of it and attention was called to the President's approval of Governor Sharkey's establishment of a militia in Mississippi. This removed all opposition and secured the unanimous passage of the ordinance. The President was requested to withdraw all colored troops from the State as unnecessary and dangerous.[50] He was also requested to proclaim speedily a general amnesty,[51] and to proclaim that the people of North Carolina were restored to their rights and privileges under the Constitution and in the Union.[52] Congress was requested to repeal the "iron-clad" oath.[53] Provision was made for revenue in 1866 by the passage of an ordinance providing for an extensive system of taxation.[54] Governor Holden was requested to confer with General Ruger and secure to the people the broken-down horses and mules which had been left by the Federal troops in exchange for those taken away.[55] In order to define the status of the freedmen the governor was instructed to appoint a commission of three persons to prepare and report to the next General Assembly a system of laws relating to the freedmen and to indicate what laws then in force should be repealed.[56]

The only matter of importance remaining, upon which the convention was likely to take any action, was the State debt. As has been seen,[57] it had not been the subject of much discussion during the period preceding the meeting of the convention. When the convention met, a committee was appointed to consider the subject. October 10th, Mr. Winston from the committee reported that they had been able to discover no difference of opinion on the question of the old debt, all agreeing that it should be paid. But in view of the fact that there was a great diversity of opinion regarding the debt incurred since May 20th, 1861, and, since the information in the hands

[50] Ordinances, p. 69.
[51] Ibid, p. 67.
[52] Ibid, p. 74.
[53] Ibid, p. 70.
[54] Ibid, p. 48.
[55] Ibid, p. 74.
[56] Ibid, p. 73.
[57] See page 107, preceding.

of the committee as to the purpose of a large part of it was very meagre, they recommended an adjourned session and that no action should be taken at the time.[58] Mr. Settle at once introduced a resolution prohibiting the assumption of the war debt. He said that, while there had been little or no discussion of the matter before the election, he believed the minds of the people were made up and that they wanted the thing settled finally. He was strongly opposed by D. F. Caldwell and Edward Conigland, who represented the element favoring the payment of the entire debt. A combination of this element with the members who preferred longer discussion and a delay until the adjourned session, resulted in the tabling of Mr. Settle's resolution.[59] This action was in part due to a letter from Dr. Powell, the State agent, to Governor Holden, in which an account was given of separate conversations with every member of the Cabinet. Secretary Stanton declined to discuss the subject, but all the rest agreed that the convention ought not to take any action, at the time, in regard to the debt. This letter was circulated and read by the majority of the members of the convention.[60]

The matter seemed settled and, so far as can be judged from the press, the people approved. But a surprise was in store for the State and the convention, though not for certain individuals. Governor Holden, who had apparently favored the tabling of Settle's resolution, either changed his mind or became aware that his views were not in accord with those of the President. So he telegraphed the latter as follows:

"RALEIGH, October 19, 1865.

SIR:—Contrary to my expectation, the convention has involved itself in a bitter discussion of the State debt made in aid of the rebellion. A continuance of this discussion will greatly excite the people and retard the work of reconstruc-

[58] Standard, Oct. 11, 1865.

[59] October 13, 1865.

[60] Jonathan Worth to the Editor of the Sentinel, Oct. 30, 1865.

tion. Our people are believed to be against assuming the debt by a large majority. Is it not advisable that our Convention, like that of Alabama, should positively ignore this debt now and forever? Please answer at once.

W. W. HOLDEN."[61]

So far as this implied that the bitter discussion had occupied the formal proceedings of the convention, it was untrue. The whole matter had been tabled on the 13th with no prospect of further action being taken during the session. The discussion had never been bitter and had been very brief. The next day Governor Holden sent to the convention the President's reply. reply.

"WASHINGTON CITY, October 18, 1865.

W. W. HOLDEN, *Provisional Governor:*

Every dollar of the State debt, created to aid the rebellion against the United States, should be repudiated, finally and forever. The great mass of the people should not be taxed to pay a debt to aid in carrying on a rebellion which they, in fact, if left to themselves, were opposed to. Let those who have given their means for the obligations of the State, look to that power they tried to establish in violation of law, Constitution, and the will of the people. They must meet their fate. It is their misfortune and they cannot be recognized by the people of any State professing themselves loyal to the government of the United States in the Union.

I repeat, that the loyal people of North Carolina should be exonerated from the payment of every dollar of indebtedness created to aid in carrying on the rebellion. I trust and hope that the people of North Carolina will wash their hands of everything that partakes in the slightest degree of the rebellion which has been so recently crushed by the strong arm of the government in carrying out the obligations imposed by the Constitution of the Union.

ANDREW JOHNSON,
President United States."[62]

This telegram changed the sentiment of the convention. Mr. Caldwell said his opinion was changed by the knowledge

[61] Sentinel, March 3, 1866. Quoted from Senate Documents.

[62] Executive Letters, Provisional Governor, p. 83.

of the President's desire and that he favored immediate repudiation. Mr. Moore, who had taken little part in the debate before, now became vehement in his opposition to immediate action. He opposed any acceptance of dictation from the President and criticised him sharply for sending the message. Mr. Brooks made a long and rather bitter speech, favoring repudiation on the ground that, as the object of the debt had been "the persecution of loyal persons," they should not be forced to bear the burden.[63] Mr. Grissom, a close friend of Governor Holden, then moved an amendment to Mr. Settle's resolution, providing for submitting the matter to the people. This was passed,[64] but later reconsidered and, the convention deciding not to put the burden of decision on the people, was rejected. Mr. Settle's resolution was then passed.[65] A protest against its passage was made by Mr. Eaton, who was joined in it by ten others. The ordinance imposed upon the General Assembly the duty of providing, as soon as practicable, for the payment of the State debt not incurred in aid of the war. It further declared all debts and obligations created in direct or indirect aid of the rebellion void, and removed from the General Assembly all power to provide for their payment.[66] President Johnson was notified of the convention's action by Governor Holden in the following letter:

"RALEIGH, October 20, 1865.

The President of the United States:

SIR:—The convention has adjourned. It has promptly repudiated every dollar of the rebel debt and bound all future legislatures not to pay any of it. Your telegram had a most happy effect. The Worth faction is working hard, but will be defeated by a large majority. Turner and other contumacious leaders ought to be handled at the proper time. Please pardon no leading man unless you hear from me.

W. W. HOLDEN."

63 Sentinel, Oct. 20, 1865.

64 Journal, p. 90.

65 Ibid, p. 92.

66 Ordinances, p. 66.

After passing a resolution of thanks to President Johnson and Governor Holden for their endeavors toward a restoration of the State to its rights in the Union, the convention adjourned until May 24th, 1866.

The action of Governor Holden and the President was resented deeply in the State. This feeling was independent, in many cases, of opinion regarding repudiation. The *Sentinel* voiced it as follows: "One of the last acts of the convention, and certainly the most humiliating act ever performed by a body claiming to be the embodiment of the sovereignty of the people of a State, and ever put upon record, was the passage of the ordinance repudiating for all time the war debt of the State."[67]

The ordinances and resolutions passed by the convention were carried to Washington by a committee headed by Judge Reade and submitted to the President for his approval.[68]

3. *The Campaign and Election of 1865.*

On October 14th, a letter, signed by fifty-three members of the convention, was sent to Governor Holden, requesting him to be a candidate for Governor at the approaching election. He replied in a somewhat fulsome manner, accepting the nomination but declaring that he had not sought it. He entered into a criticism of party spirit, declaring that faction was the bane of the country. He said that as provisional governor he had known no party, but for the future, he was a member of the National Union Party with Andrew Johnson at its head.

It was recognized generally that he had endeavored during the whole period of his incumbency of the office of provisional governor to build up a machine in his own interest,[69] but many

[67] Sentinel, Oct. 26, 1865.

[68] Ibid, Nov. 18, 1865. The Sentinel was strongly in favor of paying the debt.

[69] Testimony of Rev. Hope Bain, Reports of Committees, part 2, p. 206, 39th Cong., 1st Sess.

of his political associates were content to follow his lead and nominate him. Many, however, revolted and refused to give him their support. Lewis Hanes, his private secretary, who had been a staunch ally in the peace movement during the war, was among these. Defining his position, he said, "I believe that in everything he [Governor Holden] did, he kept constantly in view no object but his own political advancement."[70]

The announcement of Governor Holden's candidacy was not made until October 18th, when the correspondence with the members of the convention was published. In the meantime, sixty-seven members of the convention, who had declined to join in the request that Governor Holden should be a candidate, looked about for some one on whom the opposition could join. The name of Jonathan Worth had been suggested during the summer and now recurred.[71] He had won golden opinions for his skilful management of the business affairs of the State, and his past record made him eminently suitable as a candidate. Many of those who had joined in the call on Governor Holden favored Mr. Worth, but had been induced to sign by the representation that he would not be a candidate. Others were known to have signed only because they were under such obligations to Governor Holden for their pardons and for various political favors that they felt bound to support him.[72] Under such circumstances, Mr. Worth was urged to allow the use of his name and finally, with great reluctance, consented. Many of his friends believed that there was no hope of his election and he, himself, was very doubtful at first. Others thought it unwise to oppose Mr. Holden. Mr. Worth, however, was convinced that Mr. Holden was not a suitable candidate on account of the dislike he inspired in so many of the people, and soon felt fairly confident of success. His candi-

70 Old North State quoted in Standard, July 18, 1866.

71 William A. Graham and Josiah Turner were prominent in the movement which resulted in Worth's nomination.

72 Worth Letters (unpublished).

dacy was announced before Governor Holden's, and he had the advantage, if there was any, of being the first in the field. He at once resigned his place as provisional treasurer, expressing his willingness, if Governor Holden should so desire, to continue in the performance of its duties until the election.[73] The resignation, however, was accepted and Dr. William Sloan, of Gaston, was appointed to succeed him.

About the same time candidates for Congress were announced. Twenty-three aspirants for the seven seats appeared. The active work of the campaign was carried on by them, for neither of the gubernatorial candidates took part in the canvass. The usual newspaper battle commenced, and the general line of party division beginning at this time has continued ever since. Political peace, or a semblance of it, was to be absent for at least twenty years. Mr. Worth was at once attacked by the *Standard*, first with ridicule,[74] and then, as the growth of opinion in his favor became more evident, with violent abuse. He was attacked because, in 1861, he had opposed the "stay law." Josiah Turner, who was a candidate for Congress, although as yet unpardoned, had for years been closely associated with Mr. Worth and was included in the attacks. The two were accused of being the representatives of a faction of "place hunters,"[75] and not only of being the candidates of the "Confederate" party, but even of having been original secessionists. In proof of the accusation, the declaration of independence, which Mr. Turner had introduced in the Senate in 1861,[76] and for which Mr. Worth and every Union man in that body had voted in order to provoke the seces-

[73] Worth to Holden, Oct. 18, 1865.

[74] The Standard said the nomination was a "bait composed of old secession hooks dressed up in the feathers of a few Union geese."

[75] Among these were included Thos. Bragg, Judge Manly, P. H. Winston, Judge Howard, T. L. Clingman, Abram Venable, and D. D. Ferebee. Standard, Oct. 24, 1865.

[76] See p. [illegible], preceding.

26

sionists, was brought forward and urged as conclusive evidence.[77] The prospects of the State for readmission to the Union, it was was declared, would be entirely destroyed if Worth should be elected, and the issue was defined as, "W. W. Holden and Go Back to the Union, or Jonathan Worth and Stay Out of the Union. Or, in other words, Holden and live again under Washington's government, or Jonathan Worth and perish."[78] This gave Mr. Worth much uneasiness and he appealed to friends in Washington to try and find means to dispel the impression which was being created by the friends of Mr. Holden that the President preferred his election.[79] Mr. Worth's position regarding the war debt was criticised, regardless of the fact that, almost until the adjournment of the convention, Governor Holden held a similar opinion. It was stated that, in the event of Worth's election, the convention would reassemble and, in defiance of the expressed wish of the President, assume the entire war debt of the State and crush the people under the burden of an immense taxation, besides bringing the State into conflict with the authorities of the United States and having martial law under negro troops prolonged indefinitely.[80] Governor Holden's record was enlarged upon, particular emphasis being laid on his hostility to the Confederate government and his part in the peace movement.

It is not doubtful that many of these arguments had a boomerang effect. The people in general, while uncertain what they wished regarding the final disposition of the war debt, were at least certain that they wanted the matter con-

[77] Standard, Oct. 24, 1865.

[78] Ibid, Oct. 21, 1865.

[79] Worth to B. S. Hedrick, Oct. 21, 1865. Mr. Hedrick had been a professor at the University of North Carolina and had been forced to leave on account of his being in favor of Fremont in 1856. This was largely through the influence of Mr. Holden, and Mr. Hedrick, in consequence, had no good feeling for him.

[80] Standard, Oct. 21, 23, and 24, 1865.

sidered from every standpoint. The President's action in forcing repudiation was resented and the burden of this fell upon Governor Holden because, after acquiescing in the policy of postponement of the question, he had brought the matter to the notice of the President and, was, to that extent, responsible for repudiation. As regards Governor Holden's record, it was a delicate matter, and bringing it up showed a lack of political sagacity. It cannot be doubted that, at this time, North Carolina was honestly desirous of a return to the Union where peace could be found. The purpose to remain loyal to the Union in the future is equally certain. The utter failure of secession was recognized and fewer mourned it than might have been expected. But there was little or no change of opinion on the question of the right involved. It could hardly be expected that such a change would occur, but it was demanded: in the State by the "straitest sect" element, and in the North by the radicals. It would have been a wonderful thing, in view of his past record, if Mr. Holden had had the love, respect, or confidence of the people of North Carolina in 1865, even if his record since the war had been left out of the account. The great marvel was that the feeling against him remained quiet as long as it did. Only the course of the *Standard* was necessary to arouse it and insure his defeat.

The opposition to him was to an extent based on his past record, and his numerous changes of political affiliations were once more brought up against him. But the main fight was made on his action as provisional governor and the claim that his election was a prerequisite for the return of the State to its normal place in the Union. As the campaign progressed, the *Standard* and the *Progress* began to charge that all opposition to Governor Holden was an evidence of disloyalty. This course of action was sharply criticised by the rest of the State press, even by the papers supporting Governor Holden. The Charlotte *Times,* which supported Mr. Worth, said, "Vote for Holden and be loyal, and vote against him and be a traitor.

That is the English of it. And if that is to be the test, then we are a traitor and glory in the treason. As a provisional governor, we have not aught to say against him, but as a politician, we are against him, and if chance should throw us on the same side with him, it would make us question the correctness of our view."[81] Still another cause of opposition, brought forward by the *Sentinel,* was the necessity of bringing out a full vote as an assurance of the loyalty of the people of the State, and as a sign of their acceptance of the terms of reconstruction; and it was thought that, if Governor Holden should run alone, it would be regarded by the people as dictated from Washington and they would not care to vote.[82] This was a weak reason and yet the condition stated was actual, as is shown by the voting for delegates to the convention. There a great many failed to vote from the very belief mentioned here.

Mr. Holden had the support of a more influential and representative class of men than in 1864. John Pool, R. S. Donnell, Bedford Brown, and Thomas Settle signed the request that he should be a candidate. B. F. Moore, desiring that no party division should occur, was in favor of his election," if he continues to exercise the office as heretofore and if his programme of principles and measures should not be very objectionable."[83] Many others of the same type would have supported him but for the violence and the proscriptive tendency of the *Standard.*

[81] Quoted in the Sentinel, Nov. 22, 1865.

[82] Ibid, Oct. 19, 1865.

[83] B. F. Moore to T. R. Caldwell, Oct. 14, 1865. Illustrative of Mr. Moore's foresight, the following is interesting: "A division, placing the Unionists on one side and the secessionists on the other, will lead to a breach made wider and deeper every day, until the extremest partizan on either side will become the most powerful man of his party, and the most dangerous to the quiet and prosperity of the State. With such tools as these, we shall be sure to dig up negro suffrage and worship it as many did the cotton bag."

The number of Congressional candidates was lessened by the withdrawal of several before election day. In the campaign, no mention seems to have been made of the two ordinances submitted to the people. In fact they were not regarded as issues, and besides, all issues had been merged into the one of Mr. Holden. His suitability, politically and personally, was the one question to be decided.

The election was held November 9th. Its result was a victory for Mr. Worth, who received a majority of 5,937 out of a total vote of nearly 60,000, and carried fifty-four of the eighty-nine counties in the State. A much smaller vote was cast on the two ordinances, which were both ratified.[84] The Congressional elections were regarded by both sides as comparatively unimportant. All who were elected had originally opposed secession, and all but two had been Whigs. Two had been members of the Confederate Congress, and only one of the seven could take the "iron-clad" oath required for admission to a seat in Congress.[85] Of the defeated candidates, only one could take the oath.

Before the election, President Johnson told Judge Reade that the provisional government would not terminate at once. Two days after the election, Governor Holden was notified by Secretary Seward to continue the exercise of his duties until relieved by directions from the President.

Many things in the campaign tended to create the impression in the North that the result of the election was a victory of those who were still hostile to the United States, and who hoped that, in a different way than by arms, the results of the war might be changed. This impression was largely caused

[84] The vote on the ratification of the anti-secession ordinance was: For, 20,870; against, 1,983. Anti-slavery ordinance: For, 19,039; against, 3,970.

[85] The successful candidates were, J. R. Stubbs, C. C. Clark, T. C. Fuller, Josiah Turner, Bedford Brown, S. H. Walkup and A. H. Jones. The last mentioned could take the oath.

by the course of the *Standard* and the *Progress,* but they met with assistance from other sources. The result of the Congressional elections, for instance, was not calculated to assist the State to its original place in the Union. The election of an unpardoned person, as in the case of Mr. Turner, created a bad impression. In fact the wisdom of electing any of the delegation, except, possibly, A. H. Jones, who could take the oath, is doubtful, if it was hoped that they would be admitted to their seats. They were all men who favored the Union and who represented the opinions and feelings of the State, but it was fairly certain that none would be recognized when Congress met. The opinion of the President on the result is best seen in the following communication to Governor Holden:

"WASHINGTON, November 27, 1865.

Accept my thanks for the noble and efficient manner in which you have discharged your duty as Provisional Governor. You will be sustained by the government.

The results of the recent elections in North Carolina have greatly damaged the prospects of the State in the restoration of its governmental relations. Should the action and spirit of the legislature be in the same direction, it will greatly increase the mischief already done and might be fatal.

It is hoped that the action and spirit manifested by the legislature will be so directed as rather to repair than to increase the difficulties under which the State has already placed itself.

ANDREW JOHNSON,
President of the United States."

The period between the election and the meeting of the General Assembly was devoid of events of interest. As long as something was to be gained from loyalty by the element of which the *Progress* was representative, the State had been declared to be loyal. But when the result of the election was known, that paper asserted that "universal loyalty may come with the next generation, but we who live in this will never

see it."[86] The *Standard* said that the provisional governor was hindered in his work and that it was the "unmistakable work of unpardoned violent traitors."[87] The latter also dilated much upon the lack of wisdom shown in electing men to Congress who could not take the oath, forgetful of the fact that it had endorsed the candidacy of five who were unable to do so.

After the receipt of the President's letter requesting him to continue in the exercise of the duties of his office, Governor Holden seems to have thought that the provisional government would be continued until Congress had recognized the new State government by admitting the members from North Carolina. The people were anxious in regard to it and there was a general desire for some assurance from the President as to his intentions.

4. *The Return to Civil Government.*

The General Assembly met on November 27th.[88] In the Senate Thomas Settle was chosen Speaker over Dennis D. Ferebee. This would indicate a majority of the supporters of Mr. Holden. In the House Samuel F. Phillips was chosen unanimously.

The Governor's message laid special stress on the importance of immediately ratifying the Thirteenth Amendment. The House had already taken up the matter and passed a ratifying resolution with only four negative votes. An attempt was made to amend by adding a clause stating that any legislation by Congress upon the political status or civil relations of the freedmen would be unconstitutional and in opposition to the policy of the President, as expressed in his proclamations.

[86] Progress, Nov. 14, 1865.

[87] Standard, Nov. 17, 1865.

[88] Six members of the Senate and eight of the House were also members of the convention. No information can be obtained of the former political affiliations of the majority of the members.

This was defeated by a large vote.[89] In the Senate the opposition to the Amendment was strongly shown. Mr. Morehead voiced this in declaring his objection to the clause giving Congress the power of enforcement. Through it, he thought, Congress was given unlimited power of legislation, and a State would be powerless to resist. The result of its adoption would be legislation giving the freedmen the privilege of bearing arms, giving testimony, intermarriage with the whites, and the elective franchise. He denied any desire to impede its passage, but declined to vote for it.[90] Mr. Ferebee made an elaborate protest against its passage, which was spread upon the Journal. His objections were based upon the same grounds as Mr. Morehead's and also on the fact that the Southern States were not free agents, advantage being taken of their condition to force their consent to what they would otherwise reject. Three other Senators united with him in the protest.[91] The resolution passed without further opposition. The blow at the rights of the States was perceived, but, just at this time, there was apparently very little inclination to discuss the constitutional question of States' rights. Its interest for the time had waned. After ratification, the subject was referred to a committee, which reported a resolution declaring that the amendment was ratified with the understanding that the power of Congress to legislate on the subject of the freedmen was in no way enlarged.[92] This passed at the end of the session and, of course, was inoperative, amounting, simply, to a protest.

The publication in the *Standard* of the President's criticism of the State's action led to the passage of resolutions declaring that the people of the State had accepted in good faith the terms of the President and had complied with the conditions imposed; that they were loyal to the government of the United

89 House Journal, 1865, p. 26.

90 His speech is quoted in the Sentinel, Dec. 2, 1865.

91 Senate Journal 1865, pp. 153-5.

92 Ibid., 1865, p. 84.

States and were ready to make any concessions, not inconsistent with their honor and safety, for a restoration of harmony. A declaration of confidence in the President and of thanks for his liberal policy was added.[93]

The greater part of the session was spent in filling the various offices declared vacant by the convention. Two United States Senators were elected, William A. Graham and John Pool. The former, who had not been pardoned, received the unanimous vote of Orange county for the State Senate, but did not make any effort to take his seat. A large number of the members of both houses then petitioned the President to pardon him. The day he was elected United States Senator,[94] the pardon was signed, but it was not sent to him, nor was he notified of the fact for some time. Governor Holden, who, a short time before, had again advised against his pardon, notified the President of his election, adding a characteristic expression of doubt whether a Northern member of Congress could with propriety consent to sit with one who had been a member of the Confederate Congress.[95] The short term was offered to Mr. Holden privately, but he refused to accept it.[96] Thomas L. Clingman, who had been elected in 1861, claimed the seat and went to Washington with the intention of presenting himself as the member, but a committee, appointed by the State Senate to investigate the matter, declared that he had no claim to the seat, and Mr. Pool was elected. The legislature also elected a full set of judges. In the Supreme Court, two of the old members were re-elected and Judge Reade replaced Judge Manly. Five of the provisional Superior Court judges and several of the solicitors, appointed by Governor Holden, were elected permanently. Nearly all the officers chosen had been formerly members of the Whig party.

[93] Resolutions 1865, p. 10.

[94] Only fourteen votes in both houses were cast against Mr. Graham.

[95] Sen. Docs. No. 26, p. 228, 1st Sess. 39th Cong.

[96] Sentinel, Sept. 15, 1865.

No disposition was shown to take up general legislative matters. The members felt that there was no assurance that any act would be regarded as valid, and considered it wise to await the outcome of the attempt of the representatives-elect to take their seats in Congress. Consequently, after filling the vacant State offices and administering the oath of office to Mr. Worth, the governor-elect, with a provision that he should enter upon the duties of the office at the termination of the provisional government, the legislature adjourned until February, 1866, without taking any action regarding the freedmen or other matters of importance.

Governor Holden kept the President informed of the actions of the legislature, everything being presented in its worst light. He also made a strong effort to induce the President to set aside the election and retain him as provisional governor.[97] The President would not consent to this, and finally, on December 23d, sent, through Secretary Seward, the following dispatch to Governor Holden:

"DEPARTMENT OF STATE,
WASHINGTON, December 23, 1865.

To His Excellency, W. W. HOLDEN, *Provisional Governor of the State of North Carolina, Raleigh, North Carolina:*

SIR:—The time has arrived when, in the judgment of the President of the United States, the care and conduct of the proper affairs of the State of North Carolina may be remitted to the constitutional authorities chosen by the people thereof, without danger to the peace and safety of the United States.

By direction of the President, therefore, you are relieved from the trust hitherto reposed in you as provisional governor of North Carolina. Whenever the governor-elect shall have accepted and become qualified to discharge the duties of the executive office you will transfer the papers and property of the State, now in your custody, to his excellency, the governor-elect.

It gives me especial pleasure to convey to you the Presi-

[97] B. S. Hedrick to Jonathan Worth, July 8, 1866.

dent's acknowledgement of the fidelity, the loyalty and the discretion which has marked your administration.

You will please give me a reply specifying the day on which this communication is received.

I have the honor to be your excellency's most obedient servant,

WILLIAM H. SEWARD." [98]

He also notified Governor Worth of the termination of the provisional government and offered him the co-operation of the United States government in all his efforts toward an early restoration of the State. Governor Worth replied on the 28th that he had that day assumed the duties of his office and assured the President of his hearty desire to establish harmonious relations between the State and Federal governments.[99]

As has been noted,[100] the convention passed an ordinance providing that all offices filled by the provisional governor should become vacant at the close of the provisional government. The legislature made no provision for new justices of the peace, and, in consequence, the newly-elected county officers were unable to qualify, and the machinery of county government was stopped, and with it, the execution of State law by the civil power. The unimportance of the minor civil officers at this time prevented this condition of affairs from being harmful to the general welfare of the people, but it was one of the anomalies which this period so frequently presented. Governor Worth, by the advice of the Council of State, at once summoned the legislature to meet in extra session to remedy the defect. The session opened January 18th, and acts were promptly passed authorizing the provisional officers to administer the oaths of office to their successors and to the magistrates elected by the legislature at the extra session.[101] The acts of the *de facto* sheriffs until March 1, 1866,

[98] Executive Letters, Worth, Vol. 1, p. 3.

[99] Ibid, pp. 2-4.

[100] See page 117 preceding; also Ordinances, p. 59.

[101] Laws, 1866, Chap. 4.

were legalized;[102] and all other officers were authorized to hold over until the qualification of their successors.[103]

Other questions then engaged the attention of the legislature. The legislation regarding the freedmen occupied some time. The law of evidence was changed in criminal suits so as to admit the testimony of an accused person which up to this time was incompetent.[104] A resolution was introduced into the House requesting the President to proclaim a general amnesty. Immediately a substitute was offered which, after reciting the supposed hardships endured by Union men, declared that no office should be held by an original secessionist or "latter-day war man," and requesting the President to declare all offices so held vacant. To avoid discussion of this, the original resolution was dropped. The session lasted until the middle of March, most of the time being spent in private legislation.

[102] Laws, 1866, Chap. 6.
[103] Ibid, Chap. 36.
[104] Ibid, Chap. 64.

CHAPTER IV.

POLITICAL AND SOCIAL CONDITIONS UNDER THE RESTORED GOVERNMENT.

1. The Freedmen.

Even before the termination of hostilities, the negro question arose in North Carolina, but at first the problem was necessarily one for the military authorities solely. The first question requiring solution was regarding the disposition of the great numbers of freedmen who had assembled in various places, particularly in New Bern and Wilmington. When Sherman reached Fayetteville, about 8,000 negroes were with the army. The burden was too great, and he sent them to Wilmington, where a great number had already congregated.[1] When it was decided, on account of expense, the danger of disease, and other causes, to disperse them as much as possible, General Hawley settled part of those in Wilmington on Smith's Island at the mouth of the Cape Fear, and part near Fort Anderson at Old Brunswick.[2] They were supplied with food and encouraged to begin planting crops.

General Schofield, in his proclamation announcing emancipation, advised the freedmen not to congregate in the towns but to seek employment under their former masters.[3] He was fearful of the result of the delay in settling the question of their status and disposal, believing that they would become a "huge white elephant" on the hands of the government.[4] On May 15th he published a set of regulations for their government. Parents were declared to have control of their children and, at the same time, the obligation of their former masters to take care of the children became theirs. Orphans and the aged and infirm, if they had no near relations, were

[1] Off. Rec. No. 99, p. 978.
[2] Ibid, No. 100, pp. 39, 80.
[3] Ibid, p. 331.
[4] Ibid, p. 405.

still to remain in the care of their former masters, who were forbidden to turn them away. The question of wages was left to be decided by employers and employees; but the latter were warned to expect only moderate wages or a fair share of the crops. District commanders were directed to appoint superintendents to take charge of matters relating to the freedmen.[5] Provision was also made for the registration of marriages between the freedmen. When the provisional government was established no ruling was made on the subject, but freedmen were advised to go through the same formalities as the whites and clerks were directed to issue licenses to them.[6] General Schofield's regulations were fair and, where they had any effect, worked for good. The care and support of the aged negroes, without the assistance of the younger ones, was often a great burden upon the former masters, but one that was borne generally with no thought of complaining.

During the spring and early summer of 1865 outside influences were brought to bear upon the freedmen and a petition was circulated among them which asked the President, in his work of re-organization, to give them equal rights with the whites.[7] A series of meetings was held in various towns to choose delegates to a general meeting to be held later. Prominent in the proceedings of these meetings were negroes from the North who had come down to begin a movement among their race for equal rights and privileges. Several of these newcomers were natives who had escaped to the North and had received some education. The general meeting was held in Raleigh in September. The whole affair was under the control of J. W. Hood, a colored minister from Connecticut, and James H. Harris, a native who had been educated in

[5] Off. Rec. No. 100, p. 503.

[6] Executive Letters, Provisional Governor, p. 93.

[7] North Carolina correspondence of the New York Herald, May 15, 1865.

Ohio. The latter had unusual ability as a speaker and was exceedingly shrewd. A. H. Galloway, a native, but recently from the North, and Isham Swett, of Fayetteville, were also prominent. This group was again to become prominent in 1868. The tendency of the convention was towards a demand for equal political rights, including the suffrage. But, through the influence of Harris and Galloway, a set of resolutions addressed to the State convention, which was about to assemble, was adopted. These asked in moderate and well-chosen language that their race might have protection and an opportunity for education. They also asked that discrimination before the law might be abolished. No reference was made to the suffrage.[8] Before adjournment the convention resolved itself into an Equal Rights League, which at once began to work for the abolition of all distinctions on account of race and color.[9]

The question of negro suffrage was already under discussion. In July Alfred M. Waddell, a prominent citizen of Wilmington, the ante-bellum editor of the *Herald* and later a lieutenant-colonel in the Confederate service, in a speech to the colored people of Wilmington, denounced taxation without representation and advocated a future extension of the suffrage to those of the negroes that were qualified for the privilege.[10] In September the *Sentinel* said it was opposed to negro suffrage but was willing to open its pages to a discussion of the matter. A series of articles favoring it appeared, written by Victor C. Barringer, but unsigned. He took strong ground for granting the suffrage to the negroes, if only as a matter of policy, since the North would soon be united on the subject and it would be well to forestall the Radicals and grant qualified suffrage.[11] His views were probably absorbed from his brother, General Rufus Barringer, who, while a prisoner at

[8] Standard, Oct. 2 and 3, 1865.
[9] Ibid, Jan. 2, 1866.
[10] Sentinel, Aug. 8, 1865.
[11] Ibid., Sept. 1 and 11, 1865.

Fort Delaware, had come to the conclusion in his conversation with the Northern officers that nothing less than negro suffrage would be accepted by the North.[12]

The noticeable fact about the discussion of the question was that it caused no excitement or strong feeling. Opposition was expressed, but calmly, and enfranchisement was discussed as a possibility, though an objectionable one. Ex-Governor Swain said that if the freehold qualification for voting for State Senators should be restored he would favor restricted colored suffrage for the House of Representatives.[13] In all the arguments the bitterness shown a year later was lacking. But it is true that few believed that there was any possibility of negro suffrage being forced upon the South and there was no objection to a discussion where freedom of action was possible. Foremost in opposition to any extension of the suffrage was the *Standard*. Among its so-called "Union Landmarks," before mentioned[14] was "The right of the States to determine the question of suffrage for themselves. Unqualified opposition to what is called negro suffrage." [15] The discussion was without any good effect and possibly made a calm discussion later a matter of difficulty.

As has been mentioned the position of the free negroes in North Carolina previous to the war was different from that in most of the other Southern States. The same was true after general emancipation had taken place. By a decision rendered by Judge Gaston in 1838[16] the inhabitants of the State were declared to form two classes, citizens and aliens. Slaves, from their condition, belonged to the latter class, but free persons of color formed part of the former class. By emancipation, therefore, citizenship was immediately conferred

[12] Sentinel, Feb. 7, 1866.
[13] Executive Letters, Worth, Vol. 1, p. 265.
[14] p. 109, preceding.
[15] Standard, Aug. 5, 1865.
[16] State v. Manuel, 20 N. C., 20.

upon some 300,000 persons who had hitherto been "aliens through the disability of slavery." Free negroes hitherto had been, like other citizens, entitled to the privilege of the writ of *habeas corpus,* to trial by jury, to own property, even in slaves,[17] to prosecute and defend suits in courts of justice, and, as incident to this, to make affidavits for a continuance and to prove by their own oaths, even against white persons, accounts for labor to the amount of $60.[18] But the free negroes had been accustomed to the exercise of their liberties and were limited in number. When the end of the war brought general emancipation the fear naturally arose that the freedmen newly endowed with citizenship would be unprepared for its rights without special limitations. The question thus arose as to what changes would have to be made to enable this new class of citizens to enter upon their rights, and, at the same time, their duties, without disturbance and injury to the body politic. To decide this question the convention had authorized a commission to be appointed by the provisional governor and Governor Holden had appointed B. F. Moore, W. S. Mason and R. S. Donnell, who at once began their work.

They presented their report to the General Assembly in January, 1866. It was an able and elaborate discussion of the whole subject with a proposed scheme of legislation, based on the recognized citizenship of the freedmen. They advised the repeal of all laws which affected specially the colored race and the re-enacting of such as were necessary. The main bill which they recommended, and which was passed with a few minor changes, defined as persons of color negroes and their issue to the fourth generation, even when one parent was white in each generation.[19] They were declared entitled to

[17] In 1861 free negroes were forbidden thereafter to own slaves.

[18] Graham to Holderby, Feb. 6, 1866. Published in the Sentinel.

[19] Indians were included in the bill as first presented, but were omitted later.

the same rights and privileges and subject to the same disabilities as free persons of color prior to general emancipation. They were also declared entitled to the same privileges as white persons in suits and proceedings at law and in equity. The law of apprenticeship was altered so as to apply to both races alike, with the one exception that in the case of the negroes former owners had a preference over all other persons. The marriage of former slaves was made valid and provision was made for registration. Marriage between white and colored persons was forbidden and a penalty provided for issuing licenses in such cases or for performing the ceremony. All contracts where one or more of the parties was colored for property of the value of ten dollars or more were void, unless put in writing, signed by the parties and witnessed by a white person who could read and write. Persons of color were declared competent witnesses in all cases at law or in equity where the rights or property of persons of color were involved, and also in pleas of the State where the offense was alleged to have been committed against a person of color. In other cases their testimony was admissible by consent. This was not to go into effect until jurisdiction in affairs relating to the freedmen should be left to the State courts.[20] All criminal laws were changed so as to apply alike to both races, and the punishment was made the same except in the case of an assault with the intent to commit rape upon a white woman. When the assault was committed by a person of color it was a capital offence; otherwise it was an aggravated assault and punishable under the common law by fine and imprisonment.[21] A special court of wardens for the colored poor was authorized for each county.

The scheme, even with its amendments, met with considerable opposition in both houses and in the State generally. The press, however, almost unanimously favored it. The *Standard*

[20] This provision was first inserted in the House.

[21] The report will be found in the Legislative Documents for 1865-6 and in the newspapers of January, 1866.

was silent on the subject, and the editor was hostile to the proposed legislation. It was charged that he attempted to defeat the plan in the hope that the State might again be put under a provisional government.[22] Many persons in the State seemed unconvinced that citizenship had already been conferred upon the negroes and that any deprivation of their rights would be an injustice. When the November election took place it is hardly doubtful that a majority in the State was opposed to giving negroes the right to testify. Their testimony had not been admissible against white persons for many years, if ever, but since 1821 slaves had been permitted to testify against free negroes.[23] When the report of the commission was presented the chief fight was made on the portion relating to testimony and the debate lasted four days. Two grounds for the passage of this part of the bill had been stated by the commission: first, that the helpless and unprotected condition of the colored race demanded it; and second, that the admission of their testimony was necessary to secure to colored people their property rights. Other reasons were advanced in the debate—the well-known desire of the President for its passage, the hope that full jurisdiction would be given the State courts in cases relating to the freedmen, and that the Freedmen's Bureau would be withdrawn. The general unreliability of negro testimony was fully recognized, but it was thought better to admit all than to deny any, and at times defeat justice. And it was believed that it would be a means of education in telling the truth. In opposition it was urged that it was a step towards negro suffrage, and in any case would arouse hopes in the negroes that would be of no benefit to them. Finally the bill obtained in the House of Representatives a majority of one vote. In the Senate it failed to pass its second reading, but on re-consideration it obtained a majority of eight. Many of the members had

[22] Sentinel, March 14, 1866.

[23] It is said that this law was enacted to humble the free negroes.

changed their opinion during the debate, but were pledged to their constituents to vote against negro testimony. This accounts in part for the small majorities obtained.[24]

The commission recommended and obtained the passage of acts providing punishment for pursuing live stock with the intention of stealing,[25] for seditious language, insurrection and rebellion and for vagrancy. The Vagrancy Act was a substitute for two statutes already existing which made a distinction between the races. Acts were also passed to prevent wilful trespass on lands and stealing from them, to prevent the enticing of servants from fulfillment of contracts or the harboring of servants who had already broken a contract, and to secure to agricultural laborers their pay in kind. A system of work-houses was provided for to be used in the punishment of minor offenses. All these laws operated equally upon both races, and the whole "code," if it be so called, was characterized by justice and moderation.

The slight discrimination shown, however, was sufficient to cause objection by the officers of the Freedmen's Bureau, and in consequence of their refusal to surrender jurisdiction Governor Worth recommended to the convention which met in May that it should make alterations satisfactory to the Freedmen's Bureau.[26] This was done by making penalties the same for both races in all cases and abolishing all discriminations before the law.[27] The act was, however, only legislative, and did not bind the further action of any general assembly.

The social and economic condition of the freedmen during 1865 and 1866 was one that might well excite pity. Their first instinct upon emancipation had naturally been to move about and put their freedom to a test. Town life, with its excitement,

[24] Sentinel, March 5, 1866.

[25] This was made necessary by the increase of theft of live stock, particularly of hogs.

[26] Journal, p. 5.

[27] Ordinances, p. 8.

furnished an almost irresistible attraction, and only the presence of troops was necessary to render it completely so. Freedom, in their minds, meant freedom not only from slavery but from work, with a continuation of their former freedom from responsibility. Refusal to work resulted naturally in want of the necessaries of life, and sickness and destitution were general in the towns. In the country matters were somewhat better. There the demoralization of those that remained was not so great and support was more easily obtained either by labor or dishonestly. Crime increased greatly as the time went by. The proceedings of the provost marshal's court in Raleigh show somewhat the extent of petty offenses. Serious offenses of all sorts were turned over to the Freedmen's Bureau, but larceny, disorder and similar offenses were usually punished by hanging the convicted parties by their thumbs to the lamp posts in the streets. The newspapers, in almost every issue, had accounts of violence and crime committed by freedmen, and, in most cases, these went unpunished. The Bureau agents, either from intention or inability, accomplished little to remedy the condition of affairs. In many instances it was impossible for the farmers to keep the smaller live stock with any degree of security, and even horses and cattle were frequently stolen. The large number of wandering negroes increased the difficulty of bringing the offenders to justice.

2. Conflict of the Civil and Military Powers.

At the beginning of the provisional government there was, naturally, no question of the distinction between the civil and military powers. In a sense, the provisional governor was more a military than a civil officer. His appointment and authority were based on the war power of the President, and the object of his appointment was to restore a civil government. This was a work that would necessarily take time, and

to the military forces was confided the duty of at least preserving order. At the close of the war North Carolina formed a distinct military department. At first General Schofield was in command, but he was succeeded by General Thomas H. Ruger. The latter divided the department into five districts, each with a general commanding.[28] In June, 1866, the State was included with South Carolina in the Department of the South and placed under General Daniel E. Sickles.[29] North Carolina formed a separate command under General J. C. Robinson, who was also an assistant commissioner of the Freedmen's Bureau. This arrangement continued until the establishment of the military government.

The first difference which arose was in regard to the county police force. While General Schofield was in command he had a definite agreement with the provisional governor, by which the whole matter was left to the various county courts.[30] Acting in accordance with this agreement Governor Holden gave the justices of several counties permission to establish such a force. But General Ruger, who in the meantime had succeeded General Schofield, refused to recognize the agreement or to allow the forces thus organized to act.[31]

The next matter of which Governor Holden complained was in regard to the colored troops stationed in the State. The first complaint to Governor Holden came from Wilmington. The town had a negro garrison, and with its large negro population was in a state of great alarm. Alfred M. Waddell wrote the governor early in June that outrages by the troops were of daily occurrence and that the effect of the presence of the

[28] They were as follows: New Bern, Gen. C. J. Paine; Wilmington, Gen. J. W. Ames; Raleigh, General A. Ames; Greensboro, Gen. S. P. Carter; and West North Carolina, Gen. Thos. T. Heath, with headquarters at Morganton. Off. Rec. No. 100, p. 675.

[29] General Orders, No. 32; May 19, 1866.

[30] Executive Letters, Provisional Governor, p. 77.

[31] Ibid, pp. 70 and 77.

colored troops on the negro population was very dangerous. Arrests were constantly made without any cause, and in one instance the soldiers were instructed if the person arrested said or did anything to run him through. There was little or no redress, as unusual latitude was given the colored troops.[32] In July the mayor and commissioners wrote describing the conduct of the negroes and the apprehension felt by the white people of an insurrection. The negroes had demanded that they should have some of the city offices and had made threats when they were refused. The governor replied that the citizens had acted rightly in refusing to appoint the negroes to office, as the right to hold office depended on the right of suffrage. He also assured them that if the negroes attempted by force to gain control of public affairs or avenge grievances suffered at the hands of the whites, they would be visited with swift punishment; but if obedient to the laws they would be protected. He also wrote General Ruger and appealed to him to take steps in the matter, suggesting that the police guard of New Hanover county should be armed and that the city authorities should have a reserve of arms at their disposal. In September all the negro troops from the North that were in the State were ordered to be mustered out, but this still left a considerable number.[33] Wherever they were stationed there was genuine alarm among the inhabitants. A report in Raleigh in 1866 that a company was to be ordered there caused intense uneasiness.[34] In the case of Elizabeth City and Edenton all alarm was unfounded, as the soldiers behaved very well.[35] But in Beaufort a party of them from Fort Macon committed a brutal rape and were also guilty of attempting the same crime a second time. They were arrested in the town and the garrison of Fort Macon threatened to turn its guns upon the town if they were not surrendered.[36]

[32] Executive Letters, Provisional Governor, p. 35.
[33] Off. Rec. No. 126, p. 108.
[34] Sentinel, Aug. 18, 1865.
[35] Ibid, Sept. 25, 1865.
[36] Standard, Jan. 5, 1866.

The condition of affairs there was so bad that General Ruger forbade any soldiers to leave the fort except under a white officer.[37] Near Wilmington, Thomas Pickett was murdered and his two daughters dangerously wounded by three soldiers from the negro garrison at Fort Fisher in company with a negro from Wilmington.[38] In Kinston a citizen was beaten by the soldiers, and upon Governor Holden's complaint to General Ruger the garrison was removed.[39] Soon afterwards the governor notified General Ruger that a car of muskets and ammunition had been side-tracked at Auburn, and while left unguarded had been opened by the freedmen and its contents distributed. The possessors of the arms then became the terror of the community.[40] Complaints of colored troops were also sent in from New Bern, Windsor and other eastern towns.[41] General Ruger and General Cox both showed a disposition to do everything in their power to prevent any trouble, the latter issuing special orders on the subject.[42] In September, 1866, the last remaining regiment of negro volunteers was mustered out, and that cause of discontent disappeared.[43]

The white troops as a general thing, after the confusion incident to the surrender was over, behaved well. In Asheville, however, they were so disorderly and undisciplined that great efforts were made by the citizens to have them withdrawn.[44]

The chief cause of friction between the civil and the military authorities was, however, as might be supposed, concerning the administration of justice. Governor Holden, as has been

37 Executive Letters, Worth, Vol. 1, p. 38.
38 Sentinel, Jan. 18, 1865.
39 Executive Letters, Provisional Governor, p. 81.
40 Ibid, p. 82.
41 Ibid, pp. 78-9.
42 Ibid, p. 8.
43 House Ex. Docs. No. 1, p. 299; 1st session 40th Cong.
44 Vance to Worth, Feb. 6, 1866.

seen, appointed a full number of provisional judges, and when the civil government went into operation the office in every district was filled by election. A number of the provisional judges decided that they had no jurisdiction in cases of offenses committed prior to May 29, 1865, and the rest assented to this opinion,[45] but it only applied to the provisional judges and in no way bound those elected by the General Assembly.

The question of conflicting jurisdiction first arose in July, 1865. A white man in Chatham county killed a freedman in June. Governor Holden had not then appointed any judges and therefore turned the prisoner over to General Cox, who at once ordered him to be held by the provost marshal until the civil courts should be open. In July when Governor Holden requested that the prisoner should be delivered to the civil authorities for trial, General Ames refused on the ground that in view of the facts of the case a military trial was necessary.[46] The same month the question again arose over three citizens of Person county who were arrested for an assault upon a freedman and carried to Raleigh for trial by a military commission. Governor Holden at once called the attention of General Ruger to the re-organization of the civil government of the county, and requested that the prisoners might be remanded there for a civil trial. General Ruger refused on the ground that the military authorities had a clear jurisdiction in all cases relating to the preservation of order, and consequently did not have to wait for the call of the civil power or to obey the writ of *habeas corpus.* He declared that violence toward the freedmen was not uncommon in the State, but that he knew of no instance where the provisional magistrates had taken official notice of such cases. He further said that he was informed by the agents of the Bureau that hostility to the freedmen was succeeding apathy, and that consequently no dependence could be put on grand juries.

[45] The opinion is in the Standard, Dec. 15, 1865.

[46] Executive Letters, Provisional Governor, pp. 8, 20 and 23.

The only remedy for offenses against the blacks was prompt trial by a military commission. He also objected to the procedure of the civil courts as clumsy and productive of delay.[47] Governor Holden maintained that the proclamation of the President gave the civil power exclusive jurisdiction and showed the utter impossibility of concurrent jurisdiction. He defended the State against the charge of hostility to the freedmen, suggesting that the Bureau commissioners had probably heard only one side of the question.[48] But General Ruger was not to be convinced and closed the discussion, declaring that martial law existed at the surrender, and in his opinion existed still, except where modified by the President. He expressed his confidence in the honesty of the courts, but declared that they were without power to prevent violence.[49]

Governor Holden referred the whole matter to the President, who did not interfere in behalf of the State. The governor in the meantime made every effort to conform to the wishes of General Ruger. Courts of Oyer and Terminer were ordered to be held in various parts of the State, and this removed ground for the charge that justice was delayed. Finally Governor Holden reached a definite agreement with General Ruger as to military and civil jurisdiction. All cases of misdemeanor or violation of law in which white persons alone were concerned were placed within the jurisdiction of the courts of Oyer and Terminer constituted by the governor, while all cases in which freedmen were concerned were declared under military jurisdiction.[50] Later the judges of the courts of Oyer and Terminer were given power to bind over to court or to bind to keep the peace, and even to lodge in jail accused persons, regardless of color. The trial of such cases as concerned freedmen was, however, still by military com-

[47] Executive Letters, Provisional Governor, pp. 27-32.
[48] Ibid, pp. 31-6.
[49] Ibid, p. 37.
[50] Sentinel, Sept. 19, 1865.

missions.[51] General Meade approved the arrangement, assuring Governor Holden that whenever the laws of the State and the practice of the courts left no doubt that the freedmen would receive justice, the use of military commissions would cease.[52]

The conflict of the two jurisdictions was carried to its ultimate issue in the trial of Major John H. Gee, of Florida, by a military commission for violation of the laws of war in his treatment of Federal prisoners at Salisbury. A short review of the case will be interesting, as it was the most important one tried by a military commission in North Carolina. The commission assembled in Raleigh on February 21, 1866. Major Gee, through counsel, claimed that under the terms of the Sherman-Johnston agreement he, as a paroled prisoner, was not liable to trial. The commission, however, claimed jurisdiction, and the trial followed. Major Gee then pleaded his acceptance of the terms of amnesty as laid down in the President's proclamation, but the commission decided that he was debarred under the sixth exception.[53] The trial lasted over eighty days, though only fifty-five of these were actually consumed in the proceedings of the court. More than a hundred witnesses were examined. At the close of the examination of the witnesses for the prosecution the defence entered a plea that the jurisdiction of the commission had been removed by the President's proclamation declaring that the insurrection had ceased,[54] and moved that the case should be referred to the civil authorities. The commission, after hearing the matter argued by counsel, refused to assent to the motion and ordered a continuance of the trial. Colonel Holland, counsel for Major Gee, then sued out a writ of *habeas corpus* directed to General Ruger and returnable to Judge Fowle. General

[51] Record of the Provisional Governor, pp. 143-4.

[52] Executive Letters, Provisional Governor, p. 74.

[53] This excepted those who had violated the laws of war.

[54] Proclamation of April 2, 1866.

Ruger refused to produce Major Gee on the ground that he held him under the President's order. Colonel Holland then moved that an attachment be issued against General Ruger. Judge Fowle announced as his opinion that, under the President's proclamation, the prisoner was entitled to civil trial. But he postponed his decision for two weeks. The day before the time specified for rendering the decision President Johnson notified the governor that his proclamation was not intended to operate in the case of a military commission already instituted, and that General Ruger had been instructed to allow the trial to proceed, but to report all proceedings to the War Department for revision. The next day[55] Judge Fowle rendered a formal decision declaring that by virtue of the official declaration of the President that the insurrection was at an end, Major Gee was entitled to the privileges of the writ of *habeas corpus,* and consequently that General Ruger's return was insufficient. He then issued an attachment against the general, with instructions to the sheriff not to serve it if the writ should be obeyed. General Ruger of course declined to obey the writ or to submit to arrest. The matter was then referred to the governor, and thus came to an end.[56] The result of the trial was the acquittal of Major Gee.

The most important of the military trials in which the accused was a citizen of North Carolina was that of Mrs. Isham Ball, of Warren county, in February, 1866, for the murder of a freedman. The testimony showed beyond doubt that he had entered upon her premises after being forbidden to do so, and was advancing upon her in a most threatening way when she fired the shot which killed him. The commission, however, found her guilty of manslaughter, and sentenced her to three years' imprisonment. General Ruger reduced it

[55] April 28, 1866.

[56] The account of this case has been gathered from the files of the Sentinel and Standard for 1866.

to one, and a later appeal to the President resulted in her pardon. No attempt was made to procure a civil trial for her.

These were the chief instances of disputed jurisdiction and of trial by military commission. But they are merely examples chosen from the great number in the period extending from July, 1865, until the establishment of military government in name as well as in fact in 1867.

In the fall of 1865 Captain W. H. Doherty, an assistant quartermaster at New Bern, petitioned General Ruger to order a military commission to investigate the hanging of twenty North Carolina Union volunteers in March, 1864, by General George E. Pickett and General R. F. Hoke, "merely because of their devotion to the Union cause." A board of inquiry was accordingly constituted and recommended that the officers composing the court-martial that ordered the executions referred to, General Pickett, General Hoke, Colonel Baker and others unnamed, should be tried and punished for violation of the laws of war. The testimony taken by the board showed that those executed had all been deserters, but the board claimed that it was only from the State service, and that consequently the court-martial had no authority. Judge Advocate General J. Holt, to whom the case was referred, decided that no personal charge could be sustained, as those executed had been deserters. Another court of inquiry was constituted in January, 1866, but was able to gain no incriminating evidence. In the meantime the Judge Advocate General had changed his opinion in regard to the possibility of punishment and recommended General Pickett's arrest and trial.[57] General Pickett and General Hoke, however, had already appealed to General Grant, and this, in connection with the impossibility of securing a conviction, led to the dropping of the whole matter.

[57] House Ex. Docs. No. 98, 1st Sess. 39th Cong.

Injudicious expressions of opinion by newspaper editors resulted on several occasions in the application of military law. The publisher of the Goldsboro *News* was arrested, and the publication of his paper suspended, on account of a criticism of some women who had come from the North to teach in colored schools.[58] He was released without punishment. Benjamin Robinson, one of the editors of the Fayetteville *Observer,* was arrested in December, 1865, for seditious language, and was brought to Raleigh. Later he was released on parole.[59] But the most noted of such cases was that of Robert P. Waring, editor of the Charlotte *Times.* He was arrested in December, 1865, and after several weeks' confinement was tried on the charge of "publishing and circulating disloyal and seditious writings within a district under martial law, the writing referred to being calculated, it was alleged, and intended to produce hostility to the government of the United States. It was an editorial declaring the South to be under a despotism.[60] To the charge above-mentioned, so far as concerned the act, he pleaded guilty. The intention alleged

[58] Standard, Jan. 11, 1866.

[59] Ibid, Dec. 18, 1865.

[60] The editorial was as follows: "We are still without Washington news, and look forward to the report of the committee on credentials with some interest, though without hope of receiving justice. The South is now under a more grinding despotism than has heretofore found a place upon the face of the earth. Raised under a form of government, as expounded by the early fathers of the republic, when to say 'I am an American citizen' was to be equal to a king, we feel our serfdom more painfully by reflecting upon what we have lost. We have fallen from our high estate, and now there is 'none so poor as to do us reverence.' Other nations, suffering under the iron heel of lawless tyranny, can console themselves with the reflection that their condition is no worse than that of their predecessors. Not so with the proud Southron. He once roamed his field a free man, and sat under his own vine and fig tree, and none dared make him afraid. He was the equal if not the superior of the mercenary race which now dominates over him."

he denied. He was ably defended, but the result was a foregone conclusion and he was found guilty and fined $300.[61]

The only other important case of interference by the military authorities in criminal proceedings was in December, 1866, when corporal punishment was forbidden except in the case of apprenticed minors. The same order forbade the enforcement of the vagrancy laws when any distinction was made on account of race.[62] As regards corporal punishment the State had no prison, and for many years punishment by whipping had been administered to the criminals of both races. The prejudice against it originated with the negroes and the Freedmen's Bureau agents, who alike regarded it, when applied to the former, as a remnant of slavery. For months before the order forbidding it was issued there had been constant interference by the Bureau in the execution of the sentences of the courts. The cruelty of the punishment could hardly have been the cause of its abolition, for, as has been noticed, hanging by the thumbs was the usual punishment administered by the provost marshal's courts in Raleigh.[63] Governor Worth appealed to the President, and in company with Judge Ruffin, ex-Governor Swain and Mr. Boyden went to Washington to see him, but no change in the order was made. In any case it would have been too late, as the military government was established by Congress soon after.

In numerous other ways military authority was exercised. Interference in civil suits, while not so frequent as in criminal cases, was not unknown. An instance of this occurred in

[61] This was not his first experience of the military power of the United States, for, in 1861, when he returned to New York, after resigning the consulship at St. Thomas, he was arrested and confined for some time for raising his hat to a Confederate flag. Dowd, Prominent North Carolinians, p. 73.

[62] General Orders No. 15.

[63] Proceedings of the Provost Marshal's court, published in the Standard during 1865.

Raleigh in February, 1866. Two men from the North rented a hotel property in the town. The owner, after some time, unable to collect the rent, sued for the amount. Finding that the lessees were about to leave town he had them arrested, but General Ruger, who had refused to interfere in the suit on account of lack of jurisdiction, now forced the sheriff to release them because there was no judge to summon the plaintiff to show the cause of their arrest. The defendants, soon after their release, left the State without settling their indebtedness. General Ruger claimed that he had not intended to prevent recovery by the plaintiff but only to delay arrest until a judge should be present in the town.[64]

Several times interference occurred in regard to taxes. The convention of 1865 levied a tax on all mercantile business for that year. In Wilmington in January, 1866, General Cook, who was then in command, issued an order restraining the sheriff of New Hanover from collecting the tax from firms trading under a Federal license. This ruling, however, was revoked by General Ruger.[65] In 1866 General J. C. Robinson interferred in the collection of a poll tax in Cumberland and Columbus counties, ordering the sheriffs to refund all collected above $1., as the State had only levied that amount. He was probably ignorant of the fact that the law had a provision for increasing the amount according to the necessities of each county.[66]

Such was the part played by the army in North Carolina in civil affairs during the period of Presidential reconstruction. Enough has been shown of the workings of the State government to make it clear that while, by degrees, much was left to the State authorities, the government was practically military in that the State government performed its functions only through the acquiescence of the military commanders.

64 Executive Letters, Worth, Vol. 1, pp. 44-6.

65 Ibid, pp. 36-7.

66 Ibid., pp. 208-9.

These commanders, in general, showed themselves to be considerate and animated by a desire for peace and harmony. But they were naturally inclined to disregard points of law which were of importance to a civilian, and when their minds were made up to any course it was practically useless to advance any arguments in opposition. While their interference in civil affairs was deeply resented and sharply, if uselessly, opposed in the State, the officers generally were personally popular in the various communities in which they were stationed.

3. State Politics in 1866.

At the close of the provisional government Mr. Holden, embittered by his defeat and disappointed in his plan to continue in office, resumed the editorship of the *Standard*. He still had the ear of the President and felt that through this fact he might succeed in the end. But abuse of the Radical policy at Washington became less and less frequent in Holden's paper, and at the same time less violent; and by the summer of 1866 it had ceased entirely. His quiet opposition to the admission of negro testimony showed what was in his mind. No thinking person aware of the conditions of public sentiment at the North doubted that a refusal to make this concession, demanded alike by justice and policy, would solidify the radicals in Congress against any recognition of the existing State government, and it is also very clear that Mr. Holden did not desire the recognition by Congress of those who had defeated him. He was accused of this by the *Sentinel* in March and thereafter.[67]

Early in the year the *Standard* said that if the laudation of Vance in the State press should continue and should be accompanied by disparagement of Mr. Holden, an appeal would be made to the President to cause Vance to be again confined in

[67] Sentinel, March 20, 1866.

prison, and with Jefferson Davis to be tried for treason.[68] In March Mr. Holden said editorially that while he had in the past favored universal amnesty, he was compelled by the course of the secessionists to demand that the law should be allowed to take its course.[69] Four days thereafter war was formally declared upon his opponents in the following words: "We know that the true Unionists are depressed at the prospects before them, and feel that they have a right to look to Washington for sympathy and for such practicable aid as will enable them to put the enemies of the Union where they ought to be—under their feet. And we now give notice that we have commenced this warfare on traitors, not without having counted the cost, and we intend to continue it until they are driven from every office of importance in the State. Nothing shall divert us from our purpose."[70] The challenge was accepted, and the *Sentinel* became as violent as the *Standard*. The course of the *Sentinel* was regarded with distaste and apprehension by Governor Worth and his friends. They believed that but for Mr. Pell's violence Mr. Holden would be politically dead,[71] but their appeals to Mr. Pell were without effect.

When the convention assembled in adjourned session in May, opposition had developed to its taking any action in regard to the State constitution. This opposition had a twofold basis. A large number of lawyers opposed any action on the ground that the convention had been called for special purposes which it had accomplished at its first session, and that it should therefore adjourn *sine die*. Still others desired its dissolution because a large number of its members were adherents of Mr. Holden. They based their arguments upon the same reasons as the former class, but a difference is readily seen. As soon as the convention met resolutions for adjournment were introduced, declaring that it had no author-

[68] Standard, Jan. 17, 1866.
[69] Ibid, March 2, 1866.
[70] Ibid, March 6, 1866.
[71] Worth Letters. (Unpublished.)

ity from the people, and consequently that any alteration of the fundamental law of the State, further than was required by existing conditions, would be revolutionary and dangerous. Without debate the resolutions were defeated by a vote of 61 to 30. Mr. Phillips at once attempted to secure the passage of a resolution directing a committee to prepare an ordinance calling for a convention of the people to meet in 1871 to amend the constitution and providing for the adjournment of the existing body. He argued that as the chief matter of discussion was the question of a new basis of representation, it would be better to wait until the census of 1870 was taken. His resolution, however, was tabled and never acted upon.

Up to this time representation in the State had been based upon Federal population. This worked an injustice upon the West, and had been the cause of a long contest previous to the war. All efforts to secure a change had failed hitherto, but a new movement now began and was favored by the "straitest sect" element as it would greatly increase the power of the West where their chief strength lay, and might give the control of the legislature into their hands.

An attempt was made to pass a resolution providing for sending a commission to Washington to confer with the President and members of Congress in regard to what would be necessary to secure the restoration of the State to her position in the Union. But the resolution contained an indirect endorsement of the Congressional policy, and although the wording was changed it failed.

The convention remained in session until late in June. Most of the time was spent in reconstructing the constitution. The draft as proposed to the convention embodied most of the old document, with certain additions and amendments. Its arrangement was the work of B. F. Moore, who was the most experienced and learned lawyer in the body. Throughout the debates he was its strongest defender, and to him was largely due its adoption by the convention. It was provided that the

new instrument should be submitted to the people for ratification.[72] The date of the State election was changed to October to allow the new constitution, if ratified, to go into effect. This was a shrewd political move by the "straitest sect," who thought that by this they would gain control of the legislature on account of the change of the basis of representation. The influence of this element was much more apparent in the convention than in the General Assembly, but it was not great enough to overcome the conservative forces. The whole session was marked by a series of compromises; so, if the advantage remained with any particular faction, it cannot be distinguished. The constitution, as a whole, was not a matter on which the two factions divided. On its final adoption the vote was 63 to 30.

As submitted to the people the constitution was a more compact instrument than the original, for all the various amendments made from time to time were incorporated in their proper places. The only important change in the Bill of Rights was the addition of clauses prohibiting slavery, prohibiting the quartering of troops upon citizens except under certain laws, and providing that the courts should always be open to every person. The basis of representation for the House of Commons was changed to white population. The office of lieutenant governor was established. No one could hold the office of governor or of lieutenant governor unless he had been a citizen of the United States for twenty years, a resident of the State for five years immediately preceding the election, be thirty years of age and possessed of land in fee to the value of $2,000. Senators were required to be thirty years of age and to possess three hundred acres of land in fee or a freehold of not less value than $1,000.[73] Members of the House of Commons were required to have a freehold of

[72] Journal, June 25, 1866.

[73] Formerly it was required that a Senator should own three hundred acres.

one hundred acres, or to the value of $300. Five years' residence previous to election was required for members of both houses. None but white persons were eligible as voters or office-holders.[74] All persons on taking office were required to take, besides their official oath, one to support the State constitution so far as it was not inconsistent with that of the United States. It provided that no amendment should be made to the constitution except by a convention.[75] Magistrates were thereafter to be chosen by the people for a term of six years.

In addition to being more compact, the constitution was clearer and fuller than the existing one. In fact, only one great fault could be found with it, and that defect defeated it. As soon as it was submitted to the people an exceedingly able discussion on the question of ratification began. All the opposition of importance was based on the question of the validity of the action of the convention. Judge Ruffin and Judge Manly were probably the most distinguished of its opponents. The former was opposed to the white basis of representation, but his chief argument was against the authority of the convention. He said that it had no more authority in law than any voluntary assemblage of persons, and advised the rejection of the constitution on this ground also.[76] This involved a doubt of the validity of the convention's actions at its first session, and also raised a question as to the status of the governments of the various Southern States. Thaddeus Stevens later quoted him as an authority on his own position regarding them.[77] Judge Manly objected to the constitution itself, and

[74] The term "white" meant one having less than one-sixteenth of negro blood.

[75] Before this the constitution might be amended by the concurrent votes of successive legislatures, ratified by the people.

[76] Sentinel, July 28, 1866.

[77] Mr. Stevens said, "I quote Judge Ruffin, one of the ablest and fairest of secessionists. The Chief Justice is right. Not a rebel State has this day a lawful government." Speech at Bedford, Pa., Sept. 4, 1866. Standard, Sept. 19, 1866.

also claimed that, while the convention had a valid existence and authority for the purposes mentioned by the President in his proclamation, it had none for any further action.[78] William A. Graham was also opposed to its ratification.

As might be imagined, B. F. Moore was the strongest defender of the constitution or rather of the authority of the convention. Unfortunately, his main argument, a discussion of the war power of the President, and an exceedingly able one, did not appear until after the constitution had been rejected. It was written in reply to the argument of Judge Ruffin, and while not showing, possibly, as great a respect for and knowledge of constitutional law as that of the former chief justice, it indicated a clearer perception of the changed conditions brought about by the war.[79] Governor Worth also favored ratification.[80] Mr. Holden was a champion of the constitution and said that its rejection would be the worst blow that the President's policy had received. The *Sentinel* also favored ratification, but without enthusiasm.

The vote on the question was taken on August 2nd, and resulted in the rejection of the constitution by a majority of 1,982 out of a total vote of 41,122.

During the period in which occurred the events just related there were other matters of interest to the State. In April Mr. Holden came out in favor of allowing Congress to act without opposition.[81] A little later he declared that while he had favored the President's plan of restoration it had been rendered useless by the traitors who had obtained office, and, as it was necessary for the State to get back into the Union and for the control of affairs to be restored to loyal men, he would advocate the adoption of the proposed Fourteenth or Howard Amendment to the Constitution of the United States.[82]

[78] Standard, Aug. 1, 1866.
[79] Ibid., Sept. 12, 1866.
[80] Winston to Worth, Sept. 5, 1866.
[81] Standard, April 25, 1866.
[82] Ibid, June 6 and 13, 1866.

About this time, to the delight of his opponents, Mr. Holden was nominated by the President as minister to San Salvador. It is not improbable that the nomination was made to quiet him and to get him out of the way. He went to Washington to press the matter, but was unable to convince the Senate of his suitability and the nomination was rejected. It was thought at the time that he desired confirmation only that he might decline the position, but still be aided politically.[83]

In May, Governor Worth was nominated for re-election by a meeting in Randolph county, and a month later he announced himself as a candidate. He was much stronger in the State than he had been at the preceding election, and in consequence there was no attempt to run Mr. Holden. But if not a candidate, Mr. Holden was at least in entire control of the opposition to Governor Worth. He settled upon General M. W. Ransom, of Northampton, as the most suitable person to oppose Governor Worth, and used every effort to induce him to consent to become a candidate; but the general declined on the ground that he was opposed to any contest.[84] James M. Leach and General W. R. Cox were then mentioned by the opposition, but meeting with no encouragement, either from them or from the people, the leaders dropped their names. It then became the idea of most of the opposition to try and elect the lieutenant-governor and not to attempt to elect the governor. This plan met with favor among men like John Pool and Lewis Thompson, who were pledged to support Worth but were in sympathy with the radicals.[85] The plan probably failed to meet with the approval of Mr. Holden. For the nomination for lieutenant-governor, Thomas Settle was informally chosen by the opposition; while to oppose him Mr. Pell, in spite of the opposition of the Worth leaders, insisted upon pressing the claims of Dennis D. Ferebee. The rejection

[83] Hedrick to Worth, June 20, 1866.

[84] Standard, Aug. 1, 1866. Also Worth Letters. (Unpublished.)

[85] P. H. Winston to Worth, Sept. 5, 1866.

of the constitution necessitated a change in these plans. The white basis of representation was at once declared by Mr. Holden to be the issue of the campaign, and George W. Logan, of Rutherford, who had been a member of the Confederate Congress, was settled upon as a candidate for governor. P. T. Henry was a second choice.[86] But both were soon dropped, probably at their own request. The position of a candidate against Governor Worth at this juncture was not one to be sought by anyone with political ambitions.

During the summer the friends of the national administration called a convention of the supporters of the President and his policy to meet in Philadelphia on August 14th. By this means it was hoped that a consolidation of the Administration Republicans and the Democrats might be brought about. The call met with a hearty response in North Carolina, but very little hope was entertained there that good results would follow from it. However, a full delegation attended, composed almost entirely of the adherents of Governor Worth.[87] The movement was strongly opposed by Mr. Holden who said that the delegates who had been chosen would not be admitted. The convention met and issued a dignified and able address to the country. The opponents of the President's policy ridiculed the proceedings with considerable effect, and it is doubtful if much good was accomplished. Of the North Carolina delegation John A .Gilmer was one of the vice-presidents of the con-

[86] P. H. Winston to Worth, Sept. 5, 1866.

[87] R. C. Puryear, George Davis, formerly Attorney-General of the Confederate States, William A. Graham and Judge George Howard were delegates from the State at large. From the congressional districts the delegations were as follows: 1st, W. N. H. Smith, H. A. Gilliam; 2nd, M. E. Manly, Wm. A. Wright; 3d, Thos. S. Ashe, Arch. McLean; 4th, A. H. Arrington, Vacancy; 5th, Jno. A. Gilmer, Thos. Ruffin, Jr.; 6th, Joseph H. Wilson, Nathaniel Boylen; 7th, M. Patton and S. F. Patterson.

vention and William A. Graham was on the committee on resolutions.

Two weeks later another convention met in the same city. This was called by Southern Unionists who wished an opportunity to explain their sentiments and position to the country. Among the signers of the call were Daniel R. Goodloe and Byron Laflin, from North Carolina. The former was about to return to the State after an absence of many years. The latter, a Northern man, had come with the Union army and had settled in Pitt county. He was a native of Massachusetts and was the first of this class of new residents to enter politics in North Carolina. The delegation from North Carolina to the convention, besides these, was composed of five Northern men and two natives of the State.[88] The personnel of the delegation is enough to show that it was in no sense representative of the State as a whole. At the same time that this convention met, delegates from most of the Northern States met in Philadelphia to receive the Southern delegates, organizing themselves into a convention for the purpose. The "Loyalists" remained in session for five days and adopted an address denouncing the President and his policy and demanding the adoption of the proposed Fourteenth Amendment as an absolute necessity in the South. Of the North Carolina delegates the most prominent were A. W. Tourgee and Daniel R. Good-

[88] The delegates were A. W. Tourgee, a native of Ohio, who had come to Guilford County after service in the Union army; Rev. Hope Bain, a Northern minster, who had settled in Goldsboro before the war; G. O. Glavis, a former Union chaplain and Bureau agent, lately convicted of dishonesty by a military commission; Rev. James Sinclair, a native of Scotland, educated in Pennsylvania, who had lived in the State before 1861, had been a Confederate lieutenant-colonel, and after being accused of treason had become a Union chaplain and later a Bureau agent; H. K. Furniss, a Northern man, of whom little is known; J. W. Wynne, a native, and A. H. Jones, a native, who had been elected to Congress immediately after the war, but had not been admitted.

loe. The former took a very prominent part in all the proceedings of the convention but particularly in the debate which took place on negro suffrage. Mr. Tourgee advocated it strongly with the usual argument that it was necessary to protect not only the freedmen, but also all Union men.[89] Mr. Goodloe was opposed to the convention's taking any definite ground on the subject.

While this convention was holding its meetings, Mr. Holden denied that there was any difference between the plans of the President and of Congress.[90] The same day the *Standard,* acting upon the suggestion of a mass meeting in New Bern as expressed in its resolution, contained a call for a "loyal Union" convention to meet in Raleigh two weeks later. The New Bern meeting was presided over by Charles R. Thomas, but the resolutions were the work of the Northern settlers in the town. Resolutions of a similar nature, except that they demanded negro suffrage, had been passed in August by a meeting in Guilford which was controlled by A. W. Tourgee and G. W. Welker.[91]

The convention thus called met on September 20th. It passed resolutions favoring the proposed Fourteenth Amendment to the Constitution of the United States, censuring Governor Worth's administration, declaring that only the unmistakably loyal ought to hold office in North Carolina and nominating Alfred Dockery for governor. Mr. Holden addressed the body and outlined the reasons why the conditions of Congress should be accepted. He still, however, declared against

[89] Mr. Tourgee said at the same time that he had been lately informed "by a Quaker" that the bodies of fifteen negroes had been dragged out of one pond in Guilford County. He also said that 1,200 Union soldiers, who had settled in the State, had been forced to sacrifice their property and leave the State to save their lives. Executive Letters, Worth, Vol. 2, p. 2.

[90] Standard, Sept. 5, 1866.

[91] G. W. Welker was a minister from Pennsylvania.

negro suffrage.[92] A regular organization was begun, and here, for the first time since the war, there was a definite division into parties. The party formed now was the germ of the Republican party in North Carolina.

Mr. Dockery declined to be a candidate, but expressed himself as favorable to the Howard Amendment, in preference to risking the action of the next Congress. He also favored placing certain disabilities in the State and the retirement of those who could not take the "iron-clad" oath.[93] Mr. Holden fearing the consequence to his organization if there should be no opposition, advised the people to vote for Dockery, regardless of his refusal to run.

The campaign, if it can be so called, was devoid of interest. Governor Worth was re-elected, receiving a majority of 23,496 out of a total vote of 44,994. Mr. Dockery carried nine counties—among them Randolph, the home of Governor Worth. Richmond county, Mr. Dockery's home, was carried by Governor Worth.

Every effort was now made by the radicals to paint as dark a picture as possible of the condition of affairs in the State. Petitions in great numbers, from various parts of the State, were sent to the President asking that protection might be given the signers from "rebel persecution." In the case of one petition, from Camden county, a copy was sent to Governor Worth. The petitioners claimed that persecution was carried on by means of indictments for acts performed during the war in the aid of the Union cause. An investigation was at once made by Judge Brooks, of the Federal Court, who discovered that only two of the fifty-six named had been indicted, and that the offense in those cases was retailing liquor without a license.[94] Several attempts had been made to indict others for acts committed during the war, but no court would recog-

[92] Standard, Sept. 26, 1866.

[93] Ibid., Oct. 3, 1866.

[94] Executive Letters, Worth, Vol. 1, pp. 108-9.

nize the matter. In the West where there was more ill feeling on account of the greater division in sentiment and the fact that the war had been there, in reality, civil war. It is not unlikely that cases of persecution occurred, but they were private. Careful investigations were made repeatedly by Judge Merrimon and other judges of the State courts into the truth of the charges without their being substantiated. The fact of the matter was that every criminal, against whom the State courts had an indictment, became at once, in his own eyes at least, a Union patriot, suffering for his devotion to his country, and this view was taken, apparently, by the opposition party in the State.

The General Assembly, like its predecessor, was composed largely of old Whigs. Judge Manly was elected Speaker of the Senate, and R. Y. McAden Speaker of the House of Commons. Governor Worth, in his message, earnestly urged the rejection of the Fourteenth Amendment as dangerous and degrading. He reviewed the condition of the State and suggested much necessary legislation.

Judge Manly was elected to the United States Senate to succeed John Pool who, although he had voted for Worth in the last election, was suspected of favoring the radical policy, and had become exceedingly unpopular since his plea, at the time he sought admission to the United States Senate, that during the war he had sought and obtained election as a State Senator, only that he might embarrass the Confederate government. Soon after his defeat, Mr. Holden went on to Washington to join him there, declaring, before his departure, his opposition to the proposed amendment as not sufficiently stringent against traitors.[95]

Soon after the legislature assembled, a joint committee of both houses was constituted to report on the proposed Fourteenh Amendment. Its report, signed by twelve members, with only one member dissenting, was made within a few days.

[95] Standard, Dec. 5, 1866.

The committee stated that a number of radical changes in the fundamental law were proposed with no opportunity of accepting one or more without ratifying all, and in strong terms expressed their disapproval of such a plan of amendment, which, they declared, was without precedent in the history of the country. They opposed the amendment, also as submitted in an unconstitutional manner, no representatives from eleven Southern States having taken part in its passage, after the same States had been recognized as parts of the Union; by Congress in the resolutions of July, 1861, declaring the object of the war, by acts apportioning taxation, assigning to the said State their respective number of representatives, readjusting the Federal judicial circuits, and accepting as valid the assent of Virginia to the division of the State; by the Judiciary in the hearing and decision of cases carried up from their courts; and by the Executive in approval of the acts of Congress before mentioned. The submission of the amendment was also advanced as an act of recognition. The committee took the ground that if the votes of the Southern States were necessary to a valid ratification of the amendment, they were equally necessary on the question of submitting it to the States. Another ground of disapproval was the fact that the resolution containing the proposition to amend the Constitution had never been submitted to the President for his approval. The committee disclaimed any spirit of captiousness or the advocacy of merely sectional interests, recognizing, however, that the proposed amendment was designed to operate mainly upon the Southern States and was proposed only for that reason, but declared that the cause of free constitutional government was at stake, and that too much precaution could not be used. The various sections of the amendment were then taken up separately.

The main criticism of the first section was regarding the lack of any definition of the "privileges and immunities" of

citizens of the United States. The committee declared that the language of the section left the matter in too great doubt, for it might mean the privileges enjoyed in the past, or any others that the Federal Government might thereafter declare to belong to citizens. In such a case, the right of a State to regulate its internal affairs would be destroyed.

In the second section, the committee claimed that the old right of the individual States to regulate the suffrage was impaired and the whole matter left in doubt, with an implication in favor of the power of the Federal Government in the matter. The committee claimed that this clause, in conjunction with the final one giving Congress power to enforce the article by appropriate legislation, was a dangerous innovation in that it would authorize the Federal Government to "come in as an intermeddler between a State and the citizens of a State in almost all conceivable cases, to supervise and interfere with the ordinary administration of justice in the State courts, and to provide tribunals—as has to some extent been already done in the Civil Rights Bill—to which an unsuccessful litigant or a criminal convicted in the courts of the State can make complaints that justice and the equal protection of the laws have been denied him, and however groundless may be his complaint, can obtain a rehearing of his case." This, it was urged, was calculated to bring the State courts into contempt and ultimately to transfer the administration of civil and criminal justice to the Federal courts. The same section was also opposed on account of the imposition of a penalty for any restriction of the suffrage, and the attempt thereby to bring about universal suffrage. The change in the basis of representation from population to voters was objected to for its own sake as inconsistent with the theory of the political system which had always prevailed in the United States.

The third section was opposed on account of the fact that

it was directed against the South, and because thereby the majority of the mature men of the State, the committee thought, would be disqualified from holding office, and the whole State government would be overthrown. The committee stated further as their opinion, that the people of North Carolina would prefer to commit their interests to Congress as then composed, than to intrust them to a class of men, no more loyal in most instances, whose only hope of political advancement lay in the disqualification of better men. The power of Congress to remove disabilities was declared to be an interference with the pardoning power of the President, and was also opposed as placing too great a political power in the hands of Congress by which it might control elections in the States and even the State governments.

The fourth section was declared useless on account of the intention of the people to pay the Federal debt and their determination that the Confederate debt should not be paid. So in regard to compensation for the slaves, the committee thought it injustice, but declared that the people of the South had never expected to be paid for them.

The final section was opposed as opening too wide a door to Congressional interference, with the consequent centralization of power in the Federal Government.

The committee also asked what guarantees North Carolina had, in the event that her people should yield up their honest convictions of duty in the hope of restoration and ratify the amendment, that such restoration would take place. They expressed the opinion that ratification would not have any effect of the kind. As to the probability that more unwelcome and humiliating terms would be demanded, the committee, while asserting their belief that such would not be the case, declared, nevertheless, that if it were to be so, the State ought not to humiliate itself in the beginning by yielding to intimidation and ratifying a measure of which she disapproved. Consequently,

with but one dissenting voice, the committee recommended the rejection of the amendment.[96]

The report of the committee embodied the objections which had already been raised in the State and represented fairly the opinion of a majority in the State. Consequently when it reached the Senate it was adopted with only two dissenting votes. When the rejecting resolution came upon its passage, Mr. C. L. Harris, of Rutherford county, attempted to secure the substitution of a ratifying resolution. This was defeated, receiving only the vote of Mr. Harris. The resolution accepting the committee's report also received only his negative vote. Six other members had promised to vote with him, but failed him when the time came. In the House of Commons fifteen votes were cast against adopting the report, but only ten on the final passage of the rejecting resolution.

C. L. Harris and D. A. Jenkins at once went to Washington to join W. W. Holden and John Pool in the conference going on there with the radical leaders. On December 13th, the same day the amendment was rejected, Thaddeus Stevens had introduced in the House of Representatives, at the request of the North Carolinians, a bill providing for the reconstruction of North Carolina, which had been prepared by James F. Taylor, John Pool, and W. W. Holden, and approved by the North Carolina radicals.[97] This bill, after rehearsing the facts of secession, war, and Presidential reconstruction, and calling attention to the duty of Congress to preserve a republican form of government in all the States, and in the "district" named, provided that, on May 20th, 1867, a convention of the loyal citizens of the "district formerly comprising the State of North Carolina" should meet in Raleigh and prepare

[96] J. M. Leach, H. T. Clark, H. M. Waugh, J. J. Davis, Thos. S. Kenan, J. H. P. Russ, Arch. McLean, Phillip Hodnett, J. M. Perry, J. Morehead, Jr., D. A. Covington, W. D. Jones signed the report. P. A. Wilson favored the ratification of the amendment.

[97] Standard, Dec. 26, 1866.

a constitution which should be afterwards submitted to Congress for approval. All male citizens of North Carolina who could read or write, or who owned real estate to the value of $100 could vote. No person who formerly had the right to vote could be disqualified. No person could have a seat in the convention or hold any office under the new constitution without taking an oath that at all times, after March 4th, 1864, he would have complied with the terms of the President's proclamation of December 8th, 1863, providing for the restoration of the seceded States, had it been possible, and that, after that date he was opposed to the rebellion and Confederacy and gave no aid thereto, but desired the success of the Union. It was placed within the discretion of officers administering the oath to refuse to do so, when doubt existed in their minds as to the truth of the applicant's declarations. The existing State government was to cease at the pleasure of the convention. The provisions of the act were to be executed by the officials of the United States. The bill was referred and no report upon it was ever made. But Mr. Stevens later introduced the oath as an amendment to a general reconstruction bill, previously introduced. In this latter bill the oath was a prerequisite for voting.[98] This met with entire approval from Mr. Holden, for he had already decided that the original was too lenient and, in fact, he recommended some such change as was made.[99]

The House of Commons took notice of the charges that were constantly made that Union men were being persecuted in the courts. Mr. Blythe, a member, who made the charge on the floor of the House, was examined by a committee and testified that there was no use of the courts for persecution. He said that by persecution was meant, abuse of those who favored the Howard Amendment as being in favor of negro suffrage. Mr. Harris, although a member of the Senate, was also examined and gave similar evidence. The committee's report, that

[98] Globe, 2nd sess. 39th Cong., p. 250.

[99] Standard, Dec. 25, 1866.

justice was administered in the courts of the State, was unanimously adopted.[100] Mr. Holden tried to create the impression that the legislature was taking testimony in order to begin prosecutions for treason against the State.[101] Mr. Harris proved that this was incorrect, but it furnished material for numerous appeals to Congress to rescue the Union men of the State from "rebel persecution for their unswerving loyalty." That the majority in both houses of the legislature would have favored, if practicable, the punishment of those who were attempting to overthrow the existing State government, is undoubted, and it was frankly acknowledged on the floor of the House of Commons.[102] To put a stop to the complaints of persecution in the courts and to go on record against anything of the kind, an amnesty act was passed, applying to both Federal and Confederate soldiers. This act was soon put into effect.[103]

A commission at Washington was authorized for the purpose of looking after State claims, or anything that might seem necessary to the Governor. Accordingly Governor Worth appointed as the commission Nathaniel Boyden, Bedford Brown, P. H. Winston, J. M. Leach, A. S. Merrimon, and Lewis Hanes. John A. Gilmer, Thomas Ruffin, and D. L. Swain were also offered appointments, but declined. The commission went to Washington and, for part of the time, in company with Governor Worth, investigated the condition of affairs. At first hopeful, they finally saw what would be the end of the struggle with Congress, and, after conferring with Governor Orr, of South Carolina, ex-Governor Parsons, of Alabama, Governor Marvin, of Florida, Judge J. T. James, of Arkansas, and some of the members of Congress, suggested a plan of compromise. This was an amendment to the Con-

100 Journal, p. 215.
101 Standard, Dec. 19, 1866.
102 Journal and debates, Dec. 18, 1866.
103 State v. Blalock, 61 N. C., 242.

stitution of the United States, designed to replace the Howard Amendment. It added a section declaring the Union perpetual, dropped the section imposing disabilities, and, while retaining the connection of apportionment of representation and suffrage, limited the power of the States to impose property and intelligence qualifications. A part of the compromise plan was an amendment to the State Constitution. This extended the franchise in accordance with the other amendment.

The scheme was received with no enthusiasm and, after being introduced in the legislature as a substitute for a resolution proposing a national convention, was withdrawn. It would, however, have been passed, in all probability, but for the feeling that further humiliation would be required and that it was useless to attempt to do anything but save self respect.[104] A bill calling a convention of the people was then passed, but without the required majority.[105] The resolution proposing a national convention also passed both houses, only the extreme radicals voting against it. The proceedings of the session were marked by extreme bitterness, the debates being stormy, with evidence of the most intense party feeling. The radical element, while in a minority, were strong enough to give trouble to the conservatives. But all their efforts to produce any acton approving the plans of Congress failed.

In the meantime, the various changes in position of the "straitest sect" or "Loyal Union" party, as they now called themselves, had finally brought them all to the extreme position of the Northern radicals. On December 26th, 1866, Mr. Holden wrote the Albany *Evening Journal,* taking strong ground for negro suffrage and saying, in conclusion, "The rebel leaders, who are controlling these States, are totally regardless of political duty, and totally bent on mischief. You must govern them, or they will at last again govern you."[106]

[104] Governor Worth to Governor Orr, Feb. 27, 1867.

[105] Journal, pp. 387-93; March 1, 1867.

[106] Quoted in the Wilmington Journal, Jan. 7, 1867.

And on January 1st, 1867, at a meeting of the negroes in the African church in Raleigh, he declared himself in favor of unqualified negro suffrage, and introduced a resolution requesting Congress to reorganize the State government on the basis of "loyal white and black suffrage."[107] For the future, or as long as he was in political life,[108] he promoted negro suffrage as violently as, in the past, he had opposed it. He at once commenced the preparation of petitions to Congress praying that negro suffrage might be established, and circulated them among both black and white.

Beginning now, with the new year, there followed a campaign based, as similar ones before, on the supposed alarming conditions in the State. The life and property of all Union men were declared to be in extreme danger, unless Congress should interfere at once in their behalf. Those conducting the campaign hinted at severe measures and Mr. Holden said that he regretted that the property of about five hundred persons in each State had not been confiscated, and that eight or ten of the leaders in each State had not been executed.[109] Later he said that confiscation was a possibility, and even a probability. Already many of his followers were demanding it in the hope that they would profit thereby.[110]

The whole State was excited and uneasy. Doubt as to the outcome of the struggle between the President and Congress had almost entirely disappeared, and the only question was, how far Congress would go in the destruction of the institutions of the Southern States. In the western part of the State, A. H. Jones was leading in an effort to secure from Congress the division of the State, so that the Union men of the west

107 Sentinel, Jan. 3, 1867. Standard, Jan. 9, 1867.

108 In later years he changed his opinion again.

109 Standard, Jan. 9, 1867.

110 Ibid., Jan. 16, 1867. The previous autumn Mr. Holden said confiscation would be the result of a failure to ratify the Fourteenth Amendment.

could protect themselves from the "rebels" of the east. In this turmoil and excitement, the news came of the passage of the Reconstruction Act and the establishment of the military government.

4. *Economic and Financial Problems.*

Before taking up the consequences of these extreme measures, it is important to trace the general course of economic and social transformation during the period of the Presidential regime.

Secretary Seward, in his letter notifying Governor Holden of his appointment, stated that his salary and the other expenses of the provisional government would be paid out of the contingent fund of the War Department. This was due to the fact that the provisional government was dependent on the military power of the President. It was well for the State that it was so, for financial conditions were deplorable and the people were at the time unable to bear a tax that would pay the running expenses of the State government. The expenses of the convention were, of course, met by the State. Immediately before the close of hostilities the State owned a very large quantity of cotton and rosin. Secretary Seward, on July 8th, informed Governor Holden that the State could take possession of this property and use it for the necessary expenses of government. But a large part of it had been taken by the troops after the close of hostilities and turned over to the agent of the Treasury, and Secretary McCulloch had directed that it should be shipped North. But after he had been informed of the financial condition of the State, he consented that the "ungathered debris" might be collected and used by the State, and he accordingly directed his agents not to be too inquisitorial in their work.[111]

[111] House Reports, 1st sess. 40th Cong. McCulloch's testimony in impeachment investigation.

Mr. Worth took charge of its collection and found a considerable amount. The rosin was particularly valuable, for it was still in beds and untouched. Comparatively little cotton was secured, for most of what was left by the government agents was stolen by individuals in the State or from the North. Redress was impossible for lack of testimony against the persons suspected. The records of collection have been lost, but the sale of the rosin and cotton so gathered brought about $150,000. Of this amount, after the expenses of the convention and many other demands upon the State had been paid, there remained $40,000.

Even after collection, losses were frequent. An agent was sent to Georgia to collect State cotton, and at great expense got together seventy bales. It was hauled to the depot and while awaiting shipment, it was seized by a Treasury agent, and the Department declined to return it. Elsewhere in Georgia 421 bales were seized by the government with the same result.[112] And when property was safely in the possession of the State, a close watch was necessary. Soon after Governor Worth went into office, he discovered that Dr. Sloan, who had succeeded him as Provisional Treasurer, had instructed the firm of Swepson, Mendenhall & Co., of New York, who were selling the State cotton, to sell all on hand to A. J. Jones, a member of the State Senate, for 33 cents per pound. The market price on the day the instructions were given was 47 1-2 cents. No money passed at the transaction, for the cotton was at once sold at the market price and the net amount of $2,224.44 paid to Jones. Governor Worth investigated the matter at once and Jones refunded the amount, declaring that he had decided to do so before the investigation was commenced.[113]

[112] The United States later refunded the price of these two lots amounting to nearly $50,000. House Reports No. 7, 45th Cong., 3rd session.

[113] Legislative Docs. 1865-66, No. 13.

The State also owned property of considerable value in England, but from various causes, including fraud, nothing was ever realized from it.

Every bank in the State, after the repudiation of the war debt, was forced into liquidation. The Bank of North Carolina, the most important in the State, compromised with its creditors at about 36 per cent. The Bank of Cape Fear paid only 25 per cent. Later some of the creditors who had refused to compromise recovered the full value of their notes. All the banks were in better condition than might have been expected. But the tax on notes prevented any attempt at reorganization being made. Owing to the lack of capital, new banks came very slowly. Three national banks at Charlotte, Raleigh, and Fayetteville were established during the period of Presidential reconstruction.

All these things had their effect upon the condition of the people at large. This was already serious enough. The country, wherever it had been touched by the invading armies, was stripped of everything of value that could be carried away and had attracted the notice of the soldiers. This was particularly the case along the line of Sherman's march. Horses and cattle had been taken away and some killed from pure wantonness.[114] A considerable shrinkage is noticeable in the number in the State as compared with 1860. The following table gives the figures:[115]

	1860.	1866.	1868.
No. of horses.....	150,661	99,436	98,441
No. of mules	51,388	32,560	32,885
No. of milch cattle....	228,623	203,555	203,555
No. of oxen, etc.....	465,187	292,921	287,062
No. of sheep	546,749	339,259	325,684
No. of swine	883,214	1,160,816	975,085
Value live stock	$31,130,805	$22,946,758	$20,052,456

[114] Last Ninety Days of the War, p. 43.

[115] These estimates are gathered from the reports of the Department of Agriculture.

The decrease in numbers and value shown in 1868, when the report was more accurate, forces the conclusion that the figures for 1866 were the result of an over-estimate.

The troops in their march through the State left worn-out horses and took good ones wherever found. The worn-out stock had scarcely become of value to those holding it, when orders were issued by the Quartermaster General for its collection and sale.[116] Numerous protests were at once made. In December, 1865, Secretary McCulloch had ordered that such horses and mules should not be taken, but this latter order superseded that, and all horses that were branded with either the United States or Confederate marks were seized. The best terms obtainable were that wherever possible they should be sold in the counties where they were seized. Great hardship was produced by this seizure of stock, particularly as, at the time, the direct tax of 1861 was being collected, and the people had been drained of all ready money. The total amount of the tax collected before July, 1866, when an act was passed suspending further collection for two years, was $394,847.63. The quota of the State was $576,194.66.[117]

Crops in large areas had been destroyed by the horses which had been turned out to rest and fatten. Fences were gone and often stables and other farm buildings, and even, in some cases, the dwellings, were destroyed. The latter, however, was the exception. Vehicles of every description had almost disappeared. The path of the main army was comparatively limited, but foraging parties, during and immediately after the war, penetrated to almost every portion of the State. The Treasury agents followed, and by June, 1865, had collected abandoned or captured private property which sold for nearly $80,000. During the remainder of the year $14,000 was added.[118]

116 Executive Letters, Worth, Vol. 1, p. 11.

117 Report of the Secretary of the Treasury, 1866, p. 62.

118 Ibid, 1865. By January, 1865, property, excluding cotton, worth $201,164.42 had been seized.

To alleviate the distress which followed inevitably from the conditions outlined, a great deal was done by the Federal army and the Freedmen's Bureau. Rations were issued to the white people as well as to the negroes, and in this way many families were literally kept from starvation. Large sums of money were received from the North in 1866 and 1867, and grain and provisions as well. Fortunately the crops in 1865, which had been planted before the end of the war, were unusually good. The fruit crop, particularly, was immense. The crops of the next two years were poor. In fact, in 1867, the cotton crop was a complete failure and the food crops much smaller than in the preceding year. The estimated value of the corn, wheat, rye, oats, barley, buckwheat, potatoes, tobacco and hay in the State in 1866 was $45,551,450. The next year it was $38,332,716.

The large loss in the male population consequent upon the war and the great number of disabled, naturally accounted for a falling off in production. But when, in addition, it is considered that the status of the chief laboring class had been entirely changed and that the majority of that class were making their freedom evident to themselves by abstaining as much as possible from labor, it is not wonderful that, apart from bad seasons, the crops should have been poor. The whole matter of labor was very much unsettled from the nature of the great changes that had taken place, and the disturbance was increased by the constant interference of the Freedmen's Bureau in the contracts and arrangements made, as well as by its general influence in creating the dissatisfaction among the negroes.

The actual conditions regarding labor are very difficult to ascertain, owing to the chaotic situation in the State. In 1865 it was difficult in North Carolina, and indeed all over the South, to obtain laborers, on account of the belief held by the negroes that land would be given them by the United States

Government.[119] However, when Christmas passed and the new year began without any gifts, this belief was largely abandoned and necessity compelled those who were waiting for "forty acres and a mule" to find employment.[120] The contracts made in 1865 were very vague, but the disposition of the land owners to treat their employees fairly led to a gradual increase in the number made. But long-time contracts were unpopular on account of the suspicion the negroes felt at their condition and, in many instances, distrust of their former owners. Indeed, in very many cases, the negroes left their old masters and hired themselves to others, at times on plantations immediately adjoining. This was in part due to a desire to have some visible evidence of freedom.

The contract system, in general, worked badly on account of the tendency of the negroes to stop work, often when they were most needed. Many farmers found it more profitable to hire only for a short period and pay wages. The average rate was about $10 per month for men and $6 for women. The tendency of wages during the period was downward, and in 1867 the average was lower.[121] The majority of the people, however, had no ready money to pay wages and the system of working "on shares," in spite of its many disadvantages, of necessity, resulted. The usual plan was for the farmer to furnish the stock, feed and implements and the tenant to furnish the labor. The crop was divided between them, the proportion each received varying according to the nature of the crop and the section of the State. The share the tenant received varied from one-fourth to one-half. As examples of the working of the system, the following seem fair:

119 General Grant thought this belief had been started by the Bureau agents. See his report to the President in 1865.

120 Report of Asst. Commissioner, Sen. Ex. Docs. No. 27, p. 17, 1st sess. 39th Cong.

121 Report Dept. of Agriculture 1867. Report Freedmen's Bureau 1866. Sen. Ex. Docs. No. 6, p. 104, 2nd sess. 39th Cong.

In Stanly county a farmer in 1860 had kept six male hands, two women and several children on a plantation of 160 acres. With the help of six horses, he made an average crop of twenty bales of cotton, 150 barrels of corn, 50 bushels of rye, besides roots, hay, and garden vegetables. In 1866 he divided his farm into three lots, the land being of the same quality in each. The first he put in charge of the most intelligent of his former slaves with his wife and four children, old enough to work. The owner supplied two mules, feed, and all the tools required. Apart from the expenses of his family, there was no charge on the tenant. The second lot was given to two good married hands and supplied as the first. The third was given to the son of the owner, who hired a colored man for a share of the crop. The rent in each case was one-half the crop. Each tenant was left to his own judgment in the choice of the crop to be planted. The result was that the crops produced by the freedmen were small, less than 40 barrels of corn, 60 bushels of wheat, 100 bushels of oats and four bales of cotton between them. They had gone so far into debt for provisions that only a little corn and wheat was left as their share, with no money to begin another crop. The owner's son made as much as both the freedmen together and his crop was regarded as below the average. But another side is seen in another case in the same county. Two families of colored people, composed of six men, two women, and four children, undertook to plant a farm of 125 acres. In spite of the bad season, they raised 100 barrels of corn, 200 bushels of wheat, 100 bushels of oats, 25 bushels of peas, 75 bushels of potatoes, and about 4,000 pounds of ginned cotton. The value of the crop was $1,800, and they received a half.[122] It is safe to say, however, that the efforts of the freedmen, unless under white direction, for the most part resulted in failure and disaster. In consequence of the war and these conditions, real es-

[122] Report of Dept. of Agriculture 1867.

tate between 1860 and 1867 had decreased in value nearly fifty per cent.[123]

Just as the repudiation of the war debt wrecked the banks, it destroyed many private fortunes and reduced thousands from comfort to extreme poverty. Business was at a standstill for lack of money and the people were utterly unable to meet their obligations. A complicated "stay law" was passed by the convention of 1865.[124] This did not go far enough, and the legislature passed another, which was declared unconstitutional by the courts.[125] As regards the debts due by individuals to creditors in the North, some had been collected under the Confederate sequestration act. When the creditors entered their claims, the debtors pleaded their forced payment to the Confederacy as a release. The question was argued before the United States Circuit Court in session at Raleigh and Chief Justice Chase held that the payment was no discharge of the debt.[126] War contracts also caused dispute, but the Supreme Court of the State held that they were valid.[127]

To promote a general economic improvement, efforts were made to induce immigration from the Northern States. In the fall of 1865 hostile feeling was fast dying out and the people seemed genuinely anxious for Northern people to come into the State. But when it looked most favorable for an influx of new population, the campaign of misrepresentation for political purposes began and deterred many from coming. Probably the great cause of their failure to come was the presence of the negro. The experience of those who did come was not such as to strengthen them in the belief that they could profitably engage in agriculture with the existing condi-

123 Report Dept. of Agriculture, 1867.

124 Ordinances 1866, p. 31.

125 This was a decision in the Superior Court. It never reached the Supreme Court.

126 Shortridge v. Macon, 1 Abbot U. S., 58.

127 Phillips v. Hooker, 62 N. C., 193.

tions of labor. Whatever was the cause, too few came to have any appreciable effect as agents in the economic rehabilitation of the State. Few as they were, however, their political influence, in the period which followed, was great enough to delay improvement for many years.

5. *Transportation and the Mails.*

At the beginning of the war there were about 890 miles of railroad in the State. During the war the construction of a military road from Greensboro to Danville added about 50 miles to this. The most important of the systems in operation were the North Carolina, Raleigh and Gaston, the Atlantic and North Carolina, and the Wilmington and Weldon. The State owned a large interest in each of the three first mentioned. All these roads were seized by the United States army and used as military lines. Largely to this is due the fact that the roads were in condition for immediate operation at the close of hostilities; for during this period of military occupation, an extensive work of repair and improvement was kept up on all the roads. They were all under the control of the Department of Military Railroads, which had been created for the management and operation of the captured roads in the South. Some idea of what was done in North Carolina can be gathered from the following tables:[128]

Name.	From	To	Length in Miles.
Atlantic and North Carolina,	Morehead City	Goldsboro,	95.
Wilmington and Weldon,	Wilmington	Goldsboro,	85.
North Carolina,	Goldsboro	Hillsboro,[129]	89.
Raleigh and Gaston,	Raleigh	Cedar Creek,	25.
		Total,	292.

[128] Off. Rec. No. 126, p. 968.

[129] The road from Raleigh to Hillsboro, forty miles in length, was restored at once, leaving forty-nine miles under military control, the portion from Hillsboro to Charlotte never having been seized.

Name.	Track Laid. Miles.	Br'dg's Built. Lineal Feet.	Cost of bridges, track and maintenance of way.
Atlantic and North Carolina,	22.46	1288	$597,041.30
Wilmington and Weldon,	.46	879	110,243.05
North Carolina,	7.62	564	243,266.36
Raleigh and Gaston,	.15	532	13,565.32
Total,	30.69	3263	$964,116.03

Other expenses for labor, rolling stock, and the like, brought the amount expended during the period to $2,596,660.05, a small amount compared to that spent in some of the other military departments.

In spite of this the condition of the roads was not good, for the rebuilt bridges and track were only temporary. The North Carolina road had well equipped shops and was probably in better condition than any of the others. It suffered less damage from the two armies and also received less in the way of repairs. The road ran from Goldsboro to Charlotte, a distance of 228 miles. At the close of the war it had twenty-one engines, all in good condition, and had lost only one since 1860, but the rest of its rolling stock had become scanty in amount and poor in condition. Four engines had been bought from the Confederate government, but the Baltimore and Ohio road claimed them and the engines were delivered to it by the United States. The road-bed was in fair condition, but seven bridges had been lost by fire in 1865, two having been burned by incendiaries, three by the Confederate and two by the Federal army. The warehouses, tanks, and stations at Salisbury and High Point were burnt by Stoneman, the station and warehouses at Raleigh by retreating Confederate soldiers the day Sherman occupied the town, and the warehouse at Goldsboro accidentally by Federal soldiers. The estimated cost of repairing this damage was $75,000.

The road was restored to the company in October. Reorganization had already taken place under the provisional gov-

ernment. The financial condition of the company was at first thought to be very good, but investigation showed that this was an error. The Confederacy had owed the road $1,379,941, of which $600,000 had been paid in old metal—brass and iron—and a further reduction had been made by the transfer of a part interest in the Navy Department's machine shops at Charlotte. The State also owed the road a large debt, which could be met by repaying the dividends received from the State's interest in the road. From securities of a nominal value of $351,535 only $14,324 could be realized. It owed, in addition to its current accounts and capital stock, about $350,000.

Great dependence was put by this road on a large amount of cotton, over eight hundred bales, which had been purchased in 1863 and stored in South Carolina. In 1866, a committee of investigation reported that a large part of it had been lost or stolen. The same committee, after looking into the management of the sinking fund, reported a case of fraud practiced there resulting in great loss to the road. In July, 1864, the road had $58,000 in North Carolina ante-war bonds, "old sixes" as they were called. In the latter part of the year, George W. Swepson contracted to exchange new State bonds for the old, at the rate of two for one, to the amount of $25,000. Later he contracted for the remainder at the same rate. January 12th, 1865, the directors ordered that no more of the old bonds should be disposed of, except for the bonds of the corporation. Notwithstanding the fact that Swepson had not attempted in any way to carry out his part of the contract, which was verbal, the commissioners of the sinking fund allowed him to deliver the new bonds after General Johnston's surrender had made them practically worthless. He bought them for the exchange at three per cent of their face value.[130]

[130] Report of the legislative committee on N. C. R. R. Report of N. C. R. R. for 1867. The information regarding the railroads not otherwise annotated, is from their annual reports.

The United States controlled half of the Atlantic and North Carolina road, including its shops and offices at New Bern, after March, 1862. After April, 1865, the whole road was thus controlled. After the corporation was reorganized in the summer of 1865, the President, Charles R. Thomas, applied for the restoration of the road, at the same time presenting a bill for $319,500 for its use, and serving notice that after September 15th, $50,000 per month would be charged. But as more than $175,000 had been spent for material and labor, the government refused to pay anything. The road was not surrendered until the immense stores at Morehead and Beaufort had been moved over it. This work was completed in October and the road was then delivered to the corporation. At the same time it bought rolling stock and materials from the government amounting to over $50,000 in value.

The Wilmington and Weldon road was restored in August. Property to the amount of $50,000 was bought from the government.

The Raleigh and Gaston road was restored early in May. Its finances were in better condition, probably, than those of any other road in the State.

The Western North Carolina Railroad was never controlled and operated by the military forces, but it suffered from raiders, so far as track and equipment were concerned. The greatest loss it sustained was at Salisbury, where all the buildings and shops were destroyed by Stoneman. The road was unfinished and steps were at once taken to continue the work of construction westward. Bonds were issued by the State in 1866 to the amount of $50,000 for the benefit of the road and stock received in payment. This was insufficient and the State was again appealed to. This, however, belongs to a later period.

All the roads suffered in 1866 and 1867 from the impoverished condition of the people. The poor crops made the freight traffic very light. This was only temporary, and the

recovery of the roads was steady for some years. It was interrupted by events in the State in the period which now followed. The connection of the roads with politics was a great disadvantage. Every change of administration brought a change of the officers of the road, the State controlling a majority of stock in several of the most important.

Closely connected with the railroads was the matter of the mails. The United States mail service ceased in North Carolina in May, 1861. Many of the persons employed by the Post-office Department entered that of the Confederacy. Most of the funds belonging to the government were turned over to the Confederacy. The total amount was $37,770.42.[131] The larger part of this was collected when the war closed.[132] Immediately after the organization of the provisional government, the Postmaster General, in obedience to the directions of the President's proclamation of May 29th, notified Governor Holden that he was ready to reorganize the mail service as soon as arrangements could be made with the railroads. By November fourteen routes were in operation, supplying the service to a large part of the State. But there was constant trouble with the railroads on account of the small sum paid for transportation, and the uncertain and poor service of the roads made the mail facilities exceedingly bad. The difficulty of securing persons to fill the offices under the requirements of the law also delayed a return to good service. It was several years before an adequate one was established.

[131] Of this $12,391.38 was due from the seven presidential offices in the State: Chapel Hill, Fayetteville, Goldsboro, Greensboro, New Bern, Raleigh and Wilmington. Report of the Postmaster-General for 1865.

[132] Report of the Postmaster General for 1866.

CHAPTER V.

MILITARY GOVERNMENT UNDER THE RECONSTRUCTION ACTS.

1. The Reconstruction Acts.

The experiment, if it be so called, of restoration on the plan laid down by the President, lacked, from the standpoint of the individual States concerned, but one thing to be successful. Within these States the various departments of government, when free from outside interference, exercised their normal functions apparently in the manner prescribed by law and custom. But the relations of these States to the United States were abnormal by reason of the refusal of Congress to receive their representatives. Recognition of the existing State governments by the legislative branch of the general government was utterly lacking.

There were many things which, united, caused the existence of this condition of affairs. Congress, before the close of hostilities, had clearly shown and expressed the opinion that the matter of the reconstruction of the seceded States was a question the solution of which properly belonged to Congress. The reason of this, beyond jealousy for the prerogatives of the legislative branch of the government, encroached upon by the executive branch during the war, was largely the difference which appeared between the view held by the majority of the members and that held by the President of the results of the war, particularly as related to the status of the seceded States and the treatment of the freedmen. This difference increased after the death of President Lincoln and the succession of President Johnson. A combination of sentimentalism and of solicitude for the future welfare of the Republican party caused the radical element of that party to demand that the suffrage should be extended to the lately emancipated slaves.

This demand formed a basis of opposition to the President.[1] At first the many differences of opinion in the party and a desire to avoid an open rupture with the President made a policy of waiting advisable, if not actually necessary. In this period of delay a consolidation of opinion took place which enabled the radicals to cope with the President successfully when the occasion arose.

In pursuance of this policy of delay a resolution was passed providing for a joint committee of both houses on the condition of the States lately in insurrection. The committee was chosen and to it were referred all matters relating to the States in question.[2] When at the opening of Congress the delegations from the Southern States presented themselves as has been seen, no action was taken at first, and finally a resolution introduced by Mr. Stevens was passed by both houses, forbidding the admission of members from any of the eleven Southern States until Congress should formally have declared such a State entitled to representation.[3] During the period which elapsed before the reconstruction committee reported finally many individual bills were reported by it and considered in Congress. Through this discussion the policy of Congress was finally outlined and developed. In the meantime an investigation was being made by the committee of the condition of affairs in the South.

Investigations into the conditions existing in the Southern States had already been made. General Grant, with the approval of the President and the Secretary of War in November, 1865, visited Virginia, the Carolinas and Georgia. His

[1] Dunning, Essays on Civil War and Reconstruction, p. 80.

[2] The membership of the committee was as follows: Majority, Senators Fessenden, Grimes, Harris, Howard and Williams, and Representatives Stevens, Washburne, Morrill, Bingham, Conkling, Boutwell and Blow. Minority, Senator Johnson, and Representatives Grider and Rogers.

[3] This resolution passed the House February 20, 1866, and the Senate March 2, 1866.

report was altogether favorable to the President's policy, both as to conditions and as to the feeling existing among the people towards the general government. The two questions which had hitherto divided the two sections—slavery and the right of secession—he thought were regarded as finally settled by arms, and the people were ready to accept the decision in good faith. War had left such a condition that military occupation was necessary for the time to preserve order; but the mere presence of a military force, however small, was sufficient for the purpose. Colored troops should be entirely withdrawn as they were provocative of trouble. He expressed the belief that the people were anxious to return to self-government in the Union and were ready to do what the government required of them, provided it was not humiliating. He criticised the administration of the Freedmen's Bureau, bearing witness at the same time to the good accomplished by it.[4]

Two other commissioners, Carl Schurz, a major-general in the volunteer service, and Benjamin C. Truman, a civilian, also came south at different times. Neither of them came to North Carolina, and it is sufficient to say of their reports that Mr. Schurz was more gloomy regarding conditions than General Grant had been, and his report consequently was more to the taste of the radicals.[5] Mr. Truman on the other hand found everything most encouraging for a perfect restoration of peace and order.[6] President Johnson sent the two former reports to the Senate with a message reviewing the conditions in the South. All was without effect, for the message and the report of General Grant were regarded, as Senator Sumner expressed it, as "whitewashing,"[7] and they did not contain the sort of information desired by the radicals. To obtain the desired indictment of the presidential policy and of the

4 Sen. Docs. No. 2, p. 106, 1st sess. 39th Cong.
5 Ibid, pp. 1-106.
6 Ibid, No. 43.
7 Annual Cyclopædia 1866, p. 187.

South an investigation of their own was made. Sub-committees of the Reconstruction Committee were appointed to take evidence from the different States. The sub-committee for North Carolina and also for Virginia, South Carolina and Georgia was composed of Messrs. Conkling, Howard and Blow. The testimony for North Carolina, however, was all taken by Mr. Howard. He remained in Washington and summoned such witnesses as he desired. In March ex-Governor Graham, who had been elected to the United States Senate, wrote to Senator Fessenden and asked that, as a claimant for a seat and as a representative of North Carolina, he might be present at the investigations of the committee and be allowed to cross-examine the witnesses and produce evidence. Mr. Fessenden responded that the first two parts of the request could not be granted, but that the committee would be glad to examine any witnesses he might suggest.[8] Mr. Graham was much disturbed because so far as he could discover, only one witness from North Carolina had been examined and he not a native, but an officer of the army and an agent of the Freedmen's Bureau. It later appeared that there were several more who had been examined. Possibly the protest had some effect in causing the examination of additional witnesses.

In all twelve witnesses were examined by the committee for North Carolina. Of these only one was a native of the State.[9] Two had lived in the State prior to 1860, both ministers of the gospel and agents of the Bureau.[10] Eight were or had

[8] The testimony will be found in House Report No. 30, part 2, 1st sess. 39th Cong.

[9] Bedford Brown.

[10] Rev. Jas. Sinclair and Rev. Hope Bain. The former had been a lieutenant-colonel in the Confederate service, but on account of disgraceful conduct at the battle of New Bern was dropped by his regiment at re-organization in 1862. He informed the committee that he had given up his commission because he would not take part against the United States.

been officers in the Union army, and of these six were connected with the Bureau.[11] The other witness was a newspaper editor who had been a war correspondent of the New York *Herald* until the capture of Wilmington.[12] Most of the testimony, as might be expected, painted a dark picture of conditions. Most of the witnesses agreed that the freedmen were hated by the whites, and without the protection of troops would again be enslaved; that there was a secret but intense hostility to the United States government; that without protection Northern men and all Unionists would be unsafe in the State;[13] and that Northern people were disliked, and as a rule not received socially. What value this latter fact, true as it undoubtedly was, had as evidence regarding political conditions would be hard to say. One witness complained that no approach to equality was allowed the freedmen;[14] another thought that every Southern man was opposed to granting the negroes equal rights in the courts, and that there was a prejudice in the courts against the holding of property in land by a negro.[15] A majority of those questioned about the matter thought the people favored the repudiation of the war debt of the State,[16] and most of them noted, apparently with surprise, that men who had distinguished themselves as Confederate soldiers were very popular with the people. Major Lawrence, formerly an agent of the Freedmen's Bureau and an Illinois Republican, dissented entirely from the unfavor-

[11] Lieut. G. O. Sanderson, Col. E. Whittlesey, Capt. H. A. Cooke, Col. D. A. Clapp, Col. J. A. Campbell, Col. W. H. H. Beadle, Maj. H. C. Lawrence and J. W. Alvord.

[12] Thomas M. Cook.

[13] Col. Whittlesey and Maj. Lawrence dissented from this and stated that there was no danger of violence.

[14] Testimony of G. O. Sanderson, p. 173.

[15] Testimony of W. H. H. Beadle, p. 265.

[16] Testimony of Sinclair, Brown, Whittlesey, Cook and Lawrence; for the other view see Cooke and Campbell.

able testimony given by the other witnesses. He expressed the belief and offered proof that Northern men in the State were entirely safe, quoting General Abbott,[17] who said, "Tell them (the committee) that a Northern man is just as safe anywhere in the State of North Carolina as he is anywhere in the North. I do not say that a man cannot come here and act so without sense and discretion that he will get into difficulty with the people; he can do that anywhere. But a man who comes here and attends to his own business and does not take some pains to make himself odious, I think, is as safe here as anywhere else."[18] Major Lawrence thought that the people generally had accepted the result of the war and were prepared to show it by their acts, including full protection to the freedmen.[19]

The testimony so far has been analyzed merely to show its general character. It probably had no effect upon the opinion of the committee or upon the final result of their work. Nor is it likely that any such effect was intended. The object of the appointment of the committee had been, largely, to gain time while plans of legislation might be formed, independently of the result of any investigation such as was thus conducted.

[17] A Northern man who had settled in Wilmington.

[18] Testimony, p. 290.

[19] Ibid, p. 289. Major Lawrence's examination was suggested to the committee by Hon. Reverdy Johnson at the instance of Hon. Robert S. Hale, of New York. Probably his arraignment of the Freedmen's Bureau, an extract of which is here given, was the cause. Major Lawrence said, "I confess that I am tired out and half worn out with the annoyances of my position and need rest; and am so far from having any sympathy with the views that seem to prevail in Congress that I am unwilling to be a humble instrument in carrying them out. * * * I felt ashamed for myself as an American and for my government when, a few days ago, Judge Buxton, of the Supreme [*sic*] Court of this State called at my office to inquire as to the extent of jurisdiction he would be permitted to exercise in a term he was about to hold." Globe, pp. 1483-4, 1st sess. 39th Cong.

The mass of the testimony collected was to be used later as a justification and defence of the plan of reconstruction formulated and proposed, and also to secure the support of the North by means of the effect it would have upon the minds of the people.

The committee made its report in June, 1866. The majority report declared that the seceded States at the close of hostilities had been in a state of complete anarchy, without governments or the power to frame them except by permission of the victors. The plan of restoration adopted by the President was approved as a temporary military expedient for preserving order. The President's recommendation to Congress that these States should be admitted to representation was declared to have been based on incomplete evidence. When he made it, he had not withdrawn the military forces or restored the privilege of the writ of *habeas corpus,* and he still exercised over the people of these States military power and jurisdiction. Moreover the report alleged, in all the seceded States, except perhaps Arkansas and Tennessee, the elections for State officers and members of Congress "had resulted almost universally in the defeat of candidates who had been true to the Union, and in the election of notorious and unpardoned rebels who could not take the prescribed oath and made no secret of their hostility to the government and people of the United States."

From the evidence which it had secured the committee was convinced that devotion to the Confederacy and its leaders was still existent, and republican government endangered by a "spirit of oligarchy" based on slavery. The final opinion of the committee was that the States lately in rebellion had become, through war, disorganized communities; that Congress could not be expected to recognize as valid the election of representatives from these communities, nor would it be justified in admitting the respective communities to participation in government "without first providing such constitutional or other guarantees as will tend to secure the civil rights of

all citizens of the republic; a just apportionment of representation; protection against claims founded in rebellion and crime; a temporary restoration of the right of suffrage to those who have not actively participated in the efforts to destroy the Union and overthrow the government, and the exclusion from positions of public trust of at least a portion of those whose crimes have proved them to be enemies of the Union and unworthy of public confidence."[20]

The minority members of the committee presented a report dissenting from the conclusions drawn by the majority, and attacking the constitutionality of their theory and of the legislation proposed.

This legislation was embodied in a resolution which, after modification, became the Fourteenth Amendment to the Constitution of the United States;[21] a bill providing that whenever this proposed amendment should become a part of the Constitution, and any State lately in insurrection should ratify it and modify its own constitution in conformity therewith, its Senators and Representatives might be admitted, if duly qualified, after taking the required oath; and, a bill declaring inel-

[20] Many statements of fact and inference in the majority report were conspicuously untrue so far as concerned North Carolina. For example, that "the elections which were held for State officers and members of Congress had resulted, almost universally, in the defeat of candidates who had been true to the Union, and in the election of notorious and unpardoned rebels, men who could not take the prescribed oath of office, and who made no secret of their hostility to the government and people of the United States." Again, "It appears quite clear that the anti-slavery amendments, both to the State and Federal Constitutions, were adopted with reluctance by the bodies which did adopt them." And again: "The witnesses examined as to the willingness of the people of the South to contribute under existing laws to the payment of The first part of this last extract was without doubt true, but there was no basis for the latter part.

[21] The chief modification was in the third section where the original provided that until July 4, 1870, all persons who had voluntarily adhered to the late insurrection, giving it aid and comfort, should be deprived of the right to vote for members of Congress and electors for President.

igible to office under the United States all persons in the classes excepted by the President's amnesty proclamation of May 29th, 1865, except those under the thirteenth exception.[22] The two bills never passed.

The fate of the Fourteenth Amendment, when submitted to the North Carolina legislature has been noticed.[23] It met with rejection in all the other Southern States except Tennessee. When Congress met in December, 1866, enough of the Southern States had rejected the amendment to show the prevailing opinion in the South, and, consequently, the question at once arose as to what policy should be adopted. The uncertainty in regard to this became less as the remaining Southern States in turn rejected the amendment. Consequently, in February, 1867, it became a determined fact that the State governments, as organized by the President, should be superseded by others organized under military authority; that the political leaders of the Southern States should be disqualified from taking part in the re-organization of the governments; and that the right of suffrage should be extended to the negro by national legislation, in utter defiance of the constitutional provision as to the right of the individual States in the matter. In pursuance of this determination the act of March 2, 1867, "to provide for a more efficient government of the rebel States" was passed. It was vetoed by the President, but was passed over the veto on the same day. Declaring in the preamble that no legal State governments or adequate protection for life or property existed in the ten "rebel" States,[24] the act provided that these States should be divided into five military districts, each under an officer of the army of not lower rank than brigadier-general, and made subject to the military authority of the United States. North Carolina and South Carolina formed the second district. The commander of each district was required to

[22] This class was composed of those who owned $20,000.

[23] See pp. 167–171, preceding.

[24] Tennessee not included in the provisions of this act, as its representatives had been admitted.

protect all persons in their rights and to suppress insurrection, disorder and violence. In the punishment of offenders he was authorized to allow the civil tribunals to take jurisdiction, or if he deemed it necessary, to organize military commissions for the purpose. All interference with such tribunals by the State authorities was declared void and of no effect. It was further provided that the people of any of the said States should be entitled to representation whenever they should have framed and ratified a constitution in conformity with the Constitution of the United States. This constitution must be framed by a convention elected by the male citizens of the State, regardless of race, color, or previous condition, with the exception of those disfranchised for participation in rebellion or for felony. Those persons on whom disabilities would be imposed by the proposed Fourteenth Amendment were disqualified from holding a seat in the convention or from voting for delegates. The constitution thus framed and providing that all persons whom the act of Congress made electors should retain the electoral franchise, must then be approved by Congress. Whenever representatives should be admitted the portion of the act establishing military governments would become inoperative so far as concerned the State in question. Until the completion of this reconstruction the existing civil governments were declared provisional and liable at any time to modification or abolition.[25]

On March 23rd a supplementary act was passed. The original act left the whole matter of the initiation of reconstruction very indefinite. The supplementary act provided that the district commanders should cause a registration to be made of all male citizens who could take a required oath as to their qualifications as electors. The election of delegates to a convention should then be held by the commanders. For the sake of giving at least an appearance of following the will of the people, the act provided that the question of holding

[25] Laws, 2d Sess. 39th Cong., Chap. 153.

a convention should be submitted to them at the same time. Unless a majority of the registered voters took part in the election and a majority in favor of holding the convention resulted, no convention should be held. Provision was made for boards of election composed only of those who could take the "iron-clad" oath. Finally it was provided that a majority of those registered must take part in the voting on the ratification of the constitution to make it valid.[26] This act was also vetoed by President Johnson and promptly repassed by the required majorities.

In July Congress met again. In the meantime the Attorney-General of the United States had sent to the President an interpretation of the act, which closely restricted the power of the military commanders. At once another supplementary act was passed, as an authoritative interpretation of the former acts. It gave the commanders full power to make any removals from office that they might see fit, and authorized the boards of registration to go behind the oath of an applicant for registration whenever it seemed to them necessary. District commanders, the boards of registration and all officers acting under either were relieved from the necessity of acting in accordance with the opinion of any civil officer of the United States. The executive and judicial officers referred to in the imposition of disabilities[27] were declared to include the holders of all civil offices created by law for the administration of justice or for the administration of any general law of a State. An extension of time for registration was authorized, and also a revision of the lists of registered voters before the election.[28] This act, as was now the customary thing, had to be passed over the President's veto.

Such was the most important legislation enacted for the restoration of the South. Questions of precedent and of consti-

[26] Laws, 1st Sess., 40th Cong., Chap. 6.

[27] Constitution of the United States, Amendments, Art. XIV.

[28] Laws, 2d Sess., 40th Cong., Chap. 28.

tutional law were alike disregarded in their passage and justification found for all. A discussion of their constitutionality, however, is not a part of this study. It is sufficient to say that the laws were effective.

Within the State, as has been seen, the debates in Congress on reconstruction had caused the greatest excitement and anxiety. In January Governor Worth appealed to the Council of State for instructions as to the course he should pursue in the event of the passage of a reconstruction bill. He himself at that time favored resistance to such an extent as would bring the question before the Supreme Court of the United States. The Council agreed with him and authorized him to secure the best legal talent as counsel for the State in his attempt to bring the matter before the Court.[29] Acting on the advice of Judge Thomas Ruffin and ex-Governor Graham, Governor Worth consulted Hon. Benjamin R. Curtis, a former justice of the Supreme Court of the United States, at this time a practicing lawyer in Massachusetts. He agreed with Judge Ruffin that it would be practically impossible to get a test case before the Court. Judge Ruffin also advised that the State should not become a party to any attempt of the kind.[30]

Accordingly in March, after the first reconstruction act had gone into effect, Governor Worth asked the council if he should take any steps in the matter. He had come to the conclusion that it was useless and impossible to make any attempt without the authority from the General Assembly, and thought correctly that it would be impossible for that body to assemble. He advised that the people should be urged to register, and after sending as good men as possible to the convention to ratify or reject the constitution as they saw fit. The council agreed with this view and passed a resolution containing the suggestion just mentioned.[31] With the governor, and in fact

[29] Council of State Records, pp. 193-5.

[30] Executive Letters, Worth, Vol. I, pp. 395-400.

[31] Council of State Records, pp. 200-04.

with all the State, they doubted the value of any application to the Supreme Court, feeling that even were the case considered and decided in favor of the State the decision would not be respected by Congress. Governor Worth had been in correspondence with several of the Southern governors, and now notified them that North Carolina would take no part in their attempt to secure justice through a judicial decision.

2. Military Government Under General Sickles.[32]

The first reconstruction act was declared in force in North Carolina by General Robinson. General Daniel E. Sickles, however, was assigned to the command of the second district with headquarters at Columbia, South Carolina.[33] He was not unknown in the State, for he had been in command of the department of which North Carolina formed a part, and had been rather popular than otherwise. Consequently his assignment was received with as much satisfaction as could be expected under the circumstances. As a matter of fact opposition to the enforcement of the reconstruction act was apparently dead. It had been violent until the passage of the act, and then there seemed to be a general acquiescence if not agreement. But it was only resignation. No one can believe that anything approaching a majority of the white people of the State favored the destruction of the existing State government. But power to resist was lacking, and apathy succeeded protestation. The *Sentinel* expressed the feeling, saying, "In a political sense we suppose the integrity of the glorious old State of North Carolina has been blotted out of existence. * * * Well, so be it; we submit. The sword is a mighty convincer, and if such be its decision we accept it with all the logical consequences present and prospective." The supple-

[32] The orders and correspondence not otherwise referred to will be found in Sen. Ex. Docs., No. 14, "Correspondence Relative to Reconstruction," 1st sess., 40th Cong.

[33] This was later changed to Charleston.

mentary act was really received with joy by the conservative element.[34] This feeling was caused by the effect it had upon the plans of the radicals in the State. Immediately after the passage of the first reconstruction act the "loyal" members of the legislature which was then in session issued a call for a meeting of "loyal" citizens to devise a plan for calling a convention of the people. The primary meeting was held and a committee appointed to devise and carry out a plan for organization. By comparison with what this meant military government seemed to the Conservatives far preferable.

General Sickles soon after he took command issued an order declaring the civil government of the State provisional, but continuing it with directions that it should be obeyed. He requested the co-operation and assistance of all officers and citizens. He indicated that in general jurisdiction in criminal cases would be left to the civil courts. Particular cases might be referred by his order to military commissions.[35] His idea and intention were, evidently, to cause as little change in the State government as possible. Consequently he conferred frequently with Governor Worth, who had been in Washington with him before he assumed command of the district, and who went to Charleston in April at General Sickles' invitation for a consultation with him and with Governor Orr, of South Carolina.[36] General Sickles frequently took his advice, particularly regarding the appointment of provisional officers. For convenience in the military government the State was immediately divided into eleven military posts.[37] The post commanders were instructed to supervise the action of the various civil officers. They were also to give notice to headquarters of

[34] The term "conservative" is used merely in contradistinction from the radicals. It had not yet become a party title.

[35] General Orders, No. 1.

[36] Sickles to Grant, April 18, 1867.

[37] Morganton, Salisbury, Charlotte, Greensboro, Raleigh, Fayetteville, Goldsboro, Wilmington, Plymouth, New Bern, and Fort Macon.

elections of any nature that were to be held within the limits of their posts, and if necessary suggest removals.

In April General Sickles, in response to a demand for something of the kind in South Carolina to stay executions for debt, issued his well-known "General Order, No. 10." After rehearsing the conditions which made action necessary it prohibited imprisonment for debt unless accompanied by fraud. Judgments and executions on causes of action arising after December 19, 1860, and prior to May 15, 1865, were ordered not to be enforced then or thereafter. On causes arising prior to that time, execution was stayed for twelve months. Judgments on actions subsequent to May 15, 1865, might be enforced. Proceedings for recovery of money in payment for the purchase of slaves were suspended. Wages for labor were made a lien on crops. A homestead exemption of $500 was provided. The requirement of bail in cases *ex contractu* was forbidden but allowed in cases *ex delicto*. The carrying of concealed weapons was forbidden, and when injury resulted from a concealed weapon it was to be regarded as evidence of an intent to commit murder. Corporal punishment for crime was forbidden.

The order was issued with reference to conditions in South Carolina. Its injustice in several particulars as regarded North Carolina, is manifest. In ordering the stay of legal proceedings the fact that North Carolina did not secede until May 20, 1861, instead of on December 19, 1860, was entirely ignored. It was stated at the time, how correctly is uncertain, that most of the cases in which a stay was ordered in North Carolina had arisen in the interval named. The interference with the punishment of criminals worked an injustice to the State; for there was no State prison and it was a heavy tax on the counties to keep criminals idle in jails, but as the order forbidding corporal punishment was construed by the military authorities to forbid the use of ball and chain, convicts could

not be worked on the roads.[38] To remedy this condition of affairs Governor Worth and General Sickles later began to perfect a plan for the establishment of a penitentiary. General Sickles designated as a committee to consider the plan, Governor Worth, K. P. Battle, the State Treasurer, and M. L. Wiggins and J. C. Harper, chairmen of the Finance Committees of the Senate and House of Commons.[39] It was hoped that the legislature would be allowed to meet and complete the plan, but General Sickles forbade the session. Owing to the removal of General Sickles from command the matter was left for the attention of the new State government.

The order for a general registration was published in May and provided that it should begin in the latter part of July. At once the work of organizing the boards of registration began. To the great disgust of the radicals, the *Standard* already protesting against "any agency whatever by Governor Worth in the work of reconstruction,"[40] Governor Worth was consulted in the appointment of members of the boards and asked to recommend suitable persons from each county.[41] He accordingly sent recommendations for every county except Polk and Wilson.[42] It was necessary to find men who could take the oath; and as very few native whites could do so, and he wished to avoid the appointment of negroes, he endeavored to find as many former Union soldiers as possible. A few colored men were recommended by the governor, but very few applied, and he refused to recommend any member of the Union League.[43] For the general board on rules and regulations one of his nominations was accepted. For the other place a colored minister from the North was selected by General Sickles.[44]

[38] Executive Letters, Worth, Vol. I, p. 542.

[39] Ibid., pp. 547, 560.

[40] Standard, April 27, 1867.

[41] Executive Letters, Worth, Vol. I, p. 441.

[42] Ibid., p. 421.

[43] Ibid., p. 485.

[44] H. H. Helper and G. W. Brodie were the persons in question.

General Nelson A. Miles, who commanded the post of Raleigh and was also assistant commissioner of the Freedmen's Bureau, had already issued a circular to the agents of the Bureau instructing them to select two white and one colored man from each election district to be registrars and inspectors of elections. He decided that one of the white men must be a native of the State and the other an army officer or Bureau agent.[45] All preparations were made for beginning the enrollment of the voters, but General Sickles, thinking it best to wait until Congress should decide who could vote, and with his usual regard for the welfare of the people wishing the "crop laid by" before the distractions incident to registration should begin,[46] postponed indefinitely the beginning of registration. But by August 1st the order was issued with an elaborate set of rules and regulations. Under these post commanders were given power of supervision in their districts and authority to preserve order, provision was made for the recovery of damages by persons injured while attempting to vote or deprived of employment on account of their registration; and registrars were directed, regardless of any challenge, to examine the right of every applicant to register. The lists when completed should be exposed for five days and then revised.[47] After the removal of General Sickles a circular of instructions prepared by him was also published.[48]

General Sickles failed to exercise his power of removal to any great extent. When Attorney-General Stanbery gave a construction to the reconstruction acts which deprived district commanders of the right of removal, General Sickles at once wrote the adjutant-general that, without the power of removing civil officers, it was "not practicable to afford adequate security

[45] Standard, May 1, 1867.

[46] Sickles to Trumbull. Quoted in Register, July 11, 1867.

[47] General Orders, No. 65, Sen. Docs., No. 341, p. 50, 2d Sess., 40th Cong.

[48] Ibid., p. 58.

to person and property." He also said, "Without military control I believe reconstruction would be impossible. Anarchy would rule—ruin to all interests would follow." He also informed General Grant that, up to June 17, 1867, not more than twelve removals had been made in the Carolinas, and that those were for misconduct. Very few were made by him later. Policemen in Wilmington in several instances were removed,[49] and town commissioners in Wilson, Newport and Fayetteville. The mayor in the last-named place was also removed. Successors were appointed in these instances and also when the term of office of the municipal officers of New Bern expired, and the realm of politics was left and trustees appointed for the New Bern Academy, which was partially controlled by the town.[50] A town election was suspended in Tarboro until the reconstruction acts could go into effect.[51] All appointments were in accordance with an agreement made with Governor Worth, at their conference in Charleston, that no municipal elections should be held until after the meeting of the convention. All officers ordinarily elected by the people were to be appointed by the commander, and those ordinarily chosen by the legislature were to be appointed by the governor.[52]

Throughout the administration of General Sickles there was a marked tendency towards an exceedingly strict supervision from headquarters of the actions of civil officers. All officers empowered to make arrests were required to report to the provost marshals and to act under their orders.[53] Orders were constantly issued in reference to various subjects that had attracted General Sickles' notice. For instance in one order, among other things the distillation of grain was

[49] Correspondence Relative to Reconstruction, pp. 48-80.

[50] Ibid., p. 79.

[51] Ibid., p. 75.

[52] Annual Cyclopaedia, 1867, p. 692.

[53] General Orders, No. 34.

forbidden, very properly in view of the destitution in the district; license to sell liquor was confined to inns; discrimination in public conveyances of any kind on account of race was forbidden; any qualified voter under the reconstruction acts was declared eligible to hold office, and the remedy by distress for unpaid rent was abolished.[54]

Interference in the affairs of the courts was more general than before and had a greater effect in the State probably than the rest of the commander's official actions. The first instance of this was in the matter of juries. In May General Sickles declared in "General Orders, No. 32," that all citizens who had been assessed for taxes and had paid them were qualified to serve as jurors, and the proper civil officers were ordered to revise the jury lists in accordance with the order. According to his interpretation the payment of poll tax was sufficient qualification.[55] The requisite in the State hitherto had been a freehold.[56] When Chief Justice Chase held the United States Circuit Court in Raleigh in June he ordered that the jury lists should contain "all persons, regardless of race or color, otherwise qualified." This, although it admitted negroes, in other respects followed North Carolina law and precedent.[57] Governor Worth asked General Sickles to suspend his jury order until October, when it could be ascertained who had paid taxes. Accordingly the order was suspended in the North Carolina courts till the October terms.[58] Judge Barnes in June adjourned Edgecombe Superior Court because negroes had not been summoned in accordance with General Sickles' order.[59] A still more important judicial action was at Martin

[54] General Orders, No. 32.

[55] Executive Letters, Worth, Vol. I, p. 576.

[56] Judge Fowle's decision in Martin Superior Court, Register, August 30, 1867.

[57] Wilmington Journal, June 22, 1867.

[58] Annual Cyclopaedia, 1867, p. 548.

[59] Wilmington Journal, June 21, 1867.

Superior Court in August, when Judge Fowle rendered a decision that colored freeholders, under the laws of North Carolina, without regard to military orders, were qualified as jurors. Their exclusion, prior to 1865, he held, was a natural and unavoidable result of slavery, and the abolition of slavery in 1865 made all negroes, otherwise qualified, eligible.[60]

Interference with the action of the courts was also frequent. In one instance the interference was at the request of the governor. A conviction of burglary had, in accordance with State law, been followed by the imposition of the death sentence. The case was one in which Governor Worth wished to lessen the severity of the sentence, but under the law he had power only to pardon. At his request General Sickles commuted the sentence to ten years' imprisonment.[61]

Probably the most remarkable case was that of Henderson Cooper, a freedman. He had been convicted, on proof beyond any shadow of doubt, of rape in March, 1865, in Granville county, and had afterwards confessed his guilt. He was sentenced to be hung, but escaping to Virginia, he had gone to Washington, where he had been arrested and returned to the custody of the State in the fall of 1866. Later the sentence was about to be carried into effect by order of court when General Sickles, at the representation of Colonel Bomford, the commanding officer of the post of Raleigh, declared the sentence null and void. Colonel Bomford was ordered to investigate the charges against the prisoner, and a court of inquiry was accordingly instituted. Neither the victim of the assault, the original witnesses, nor the court officers at his trial were summoned. The court of inquiry reported, without presenting any testimony to substantiate it and contrary to fact, that the character of the prosecutrix was bad. It further stated that at the time the assault was committed "the woman's husband was engaged in overseeing slaves; he was at that time, in fact,

[60] The decision is quoted in full in the Register, August 30, 1867.

[61] Correspondence Relative to Reconstruction, p. 76.

in the rebel army." The conclusion of the court was that "a crime has been committed which, although not meriting so severe a penalty as that of death, should receive some punishment'.' A military commission was then ordered. The State asked to have counsel present but was refused. The commission found the prisoner guilty and sentenced him to be hung. Just at this point General Canby replaced General Sickles and held that the action of the State court and that of the military commission were alike void, and directed that the prisoner should be remanded to the civil authorities for trial on a new indictment. This was virtually an order of release, for the prisoner could have pleaded a former indictment and conviction and the judge would have been compelled to charge the jury to acquit.[62] But while the prisoner was confined in Granville jail it caught fire and he was burned to death.[63] It was reported at the time that he himself set the building on fire in an effort to escape. But there is strong ground to believe that it was fired from outside with the object of his destruction.

Another interesting case was in Buncombe county, where a freedman, after a trial which was acknowledged to be fair by his own counsel, was convicted of an assault. The solicitor was a Republican, so it could not have been political persecution. The convict was bound out for costs, but an agent of the Freedmen's Bureau at once insisted upon his release, stating that "things were not going on right" in that part of the State as regarded the colored people. He was sustained by the officer commanding the post, who released the prisoner by military force and made an entry on the court records forbidding further proceedings in the case.[64]

Provost courts were established at various points to have jurisdiction in small cases. The members of these courts were not always chosen with the care which their importance de-

[62] Executive Letters, Worth, Vol. II, pp. 5-15.
[63] Ibid., pp. 111-116.
[64] Ibid., Vol. I, pp. 554-7.

manded.[65] These, also, in several instances claimed jurisdiction in matters that were before the State courts.

These are examples of numerous similar cases. As interference became more frequent, the position of the State judges became increasingly difficult. They were sworn to execute the laws of the State and the military orders often conflicted with the law. Judge Merrimon, unwilling to hold the office under the existing conditions, resigned in July.[66] After some delay his resignation was accepted by the governor and a successor who could take the required oath was nominated. General Sickles then accepted the resignation and appointed the governor's nominee.[67]

But it was not only the State courts that were liable to military interference, though they alone were powerless to resist it. In June, 1867, the first Circuit Court of the United States held in the South since the commencement of the war was opened in Raleigh with Chief Justice Chase presiding. Since the close of the war the justices had declined to hold court in the South on account of military occupation with its attendant cessation of civil authority. Chief Justice Chase in opening the court said that military authority was still exercised, but that it was not in its power as formerly to control judicial process State or national, but it could "only prevent illegal violence to person and property and facilitate the restoration of every State to equal rights in the Union. This military authority does not extend in any respect to the courts of the United States." [68] A different view from this was held by the military commander. Under an execution issued by order of the court the marshal attempted to sell property in Wilmington to satisfy a debt owed to a creditor outside the State. The post com-

[65] For instance, the provost court at Fayetteville was composed of comparatively uneducated laborers.

[66] Executive Letters, Worth, Vol. I, p. 524.

[67] Alexander Little.

[68] Annual Cyclopædia, 1867, p. 547.

mander, Colonel Frank, stopped the execution, and his action was sustained by General Sickles. The matter was then, through the attorney-general, referred to the President, who sustained the marshal and consequently the court. General Sickles' order was suspended, so far as it applied to the proceedings of the Federal courts, and this left the unusual condition of affairs that, while a debtor was protected from creditors within his own State, foreign creditors could obtain relief. General Sickles asked for time to explain his position and action, but in the meantime steps were taken by the Department of Justice to obtain an indictment against him for violation of the criminal laws in obstructing the process of a United States court. The President closed the matter by acting on the advice which the attorney-general had given him more than two months before, and removing General Sickles from command of the Second District on August 26th, and assigning General E. R. S. Canby to succeed him. General Sickles defended his conduct to General Grant and closed his letter with an expression of what seems to have been the opinion held generally by the military officers. He said: "I do firmly believe that Congress, intending to secure the restoration of these States to the Union, made all other considerations subsidiary to the accomplishment of this end. I do not believe that processes of the courts of the United States should override the orders Congress has empowered me to make for the execution of its measures."[69]

On the whole the administration of General Sickles may be said to have been popular in the State so far as any military administration could have been so. It certainly was so with the conservative element. They opposed many of his acts as unconstitutional, but his evident desire for the betterment of economic conditions made many friends for him. His constant appeal to the State officers for advice was also liked by the people, and they appreciated his testimony in the State's

[69] Annual Cyclopædia, 1867, p. 548.

favor, given on several occasions in public and private.[70] He believed in general amnesty, regarding it as necessary to successful reconstruction, and favored the removal of all disabilities, as he thought that very few who were fit to hold office were enfranchised.[71] These same things made him unpopular with the radical leaders.[72] He ignored them utterly in carrying on the process of reconstruction, and they consequently looked upon him with distrust.

3. Military Government Under General Canby.[73]

The assumption of command by General Canby brought no marked change from the policy of his predecessor. All orders of the latter were declared in force soon after General Canby reached South Carolina.[74] In time, however, certain modifications were made.

The first new order issued from the military headquarters was one giving notice to all persons who, through absence from the State or other cause, had failed to give their parole, to do so within thirty days.[75] The jury order of General Sickles was then modified by making the right to vote the only qualification.[76] In other internal affairs there was the

[70] When President Johnson visited Raleigh in the summer of 1867, General Sickles, in his speech, said: "Confident that it is gratifying to the Chief Magistrate and the Cabinet ministers present, to witness the admirable bearing of the people of this capital, it is my duty to testify to the President that what he has seen to-day in the capital, prevails everywhere over the broad surface of your noble State."—Wilmington Journal, June 7, 1867.

[71] Letter to Senator Trumbull, July, 1867.

[72] The radical convention, which met in Raleigh in September, 1867, passed resolutions of respect for General Sheridan, who had lately been removed from command of a district, but made no mention of General Sickles.

[73] The orders issued during Gen. Canby's administration are to be found in Sen. Ex. Docs., No. 341, 2d Sess., 40th Cong. Reference will only be made to the number of the order and the page.

[74] General Orders, No. 85, p. 60. [75] Ibid., No. 86, p. 60.

[76] Ibid., No. 89, p. 61.

same interference. Authority was given for the suspension of the payment of taxes under certain conditions; provision was made for compelling citizens by military authority to work the roads and build bridges;[77] and, by proclamation, an official interpretation was given to certain laws of the State.[78] The refusal of clerks to issue marriage licenses, in cases where the parties were of different races, was declared a violation of United States law, which furnished ample remedy and redress to the injured parties.[79] "General Order No. 10" was modified and a change made in the date to correspond with the secession of North Carolina, May 20, 1861, being substituted for December 19, 1860.[80]

The important work of registration was carried on under General Canby. Finally on October 18th he declared registration completed, and issued the order for an election to be held November 19th and 20th. The usual regulations for the conduct of an election were made. Sheriffs and other peace officers were ordered to be in attendance; soldiers were forbidden to approach the polls except as qualified voters; all saloons were ordered to be closed, and members of the boards of registration, who were also candidates for the convention, were forbidden to serve as judges of election in their respective counties. The "iron-clad" oath was required, which excluded most native whites from service as election officials.[81]

In the latter part of October the decisions of the general board of rules and regulations in regard to grounds of challenge were revised.[82] The circular shows the interpretation of General Canby as to disqualification for registration. The

77 General Orders, No. 95, p. 62.

78 Ibid., No. 134, p. 75.

79 Sentinel, April 11, 1868. A letter of General Miles, dated November 10, 1867, was quoted in full.

80 General Orders, No. 164.

81 It is impossible to discover how far this rule was carried out. Accusations were made that it was disregarded.

82 Circular, p. 69.

decision of General Sickles that in case entering the service of the Confederacy or giving aid and comfort to its adherents had been involuntary, no disqualification existed, had already been published. Under the interpretation of General Canby the holding of only certain specified offices prior to the war constituted a disqualification. Among them were the following: sheriff, county clerk, member of the legislature, justice of the peace, school commissioner, tax collector, constable, postmaster and marshal. But no disqualification was caused by having held any of the following positions: deputy sheriff, deputy marshal, assistant postmaster, clerk of the State Senate, keeper of a light-house and notary public.[83]

As to the question of what constituted aid to the Confederacy it was held, among other things, that investment in Confederate bonds, collecting supplies for the Confederacy, making speeches in support of the war and holding a mail contract or any civil and military office were acts that carried disqualification. But making charitable contributions or being a candidate for office did not constitute aid and comfort in the disqualifying sense. Hiring out horses to the Confederacy was disloyalty; to Confederate soldiers was not.

The result of the registration was as follows:[84]

Whites	106,721
Blacks	72,932
Total,	179,653

Nineteen counties had negro majorities and in several others the white majority was less than a hundred.[85] No definite idea

[83] These are only a few of the cases cited.

[84] This is the revised total. The first result was, whites, 106,060; blacks, 71,657.

[85] Bertie, Caswell, Chowan, Craven, Edgecombe, Franklin, Granville, Greene, Halifax, Hertford, Jones, Lenoir, New Hanover, Northampton, Pasquotank, Perquimans, Pitt, Richmond, and Warren had negro majorities.

can be formed of the number disqualified on account of disabilities imposed by the reconstruction acts. The registration of 1868, when the disabilities did not have the effect of disfranchisement, showed a gain of 17,220. But many who were qualified did not register in 1867 and did so in 1868.[86]

Many accusations of fraud in the registration were made, but there was no disturbance of any kind during the whole period. It is undoubtedly true that many negroes not of age were registered. But the difficulty of determining their age could not be overcome even had it been desired, for in most instances they themselves were as ignorant of the truth as the registrars. As a general thing a negro could register upon application, even if previously convicted of felony. There was also a tendency on the part of the registrars in many places to deny registration to those who they knew were opposed to reconstruction. But it is probable, speaking generally, that the registration was as fair as could be expected under the system employed.[87]

As regards the qualification of the new electorate for the exercise of the franchise, the primary fact naturally was the dense ignorance among the negroes. Mony of them, moreover, were vicious and idle, but probably not in so great a proportion as during the years immediately following. Certainly they were not so vicious. From the nature of things also they were able to bear a very small part of the burdens of citizenship and paid a very small part of the taxes.[88]

[86] Gen. Canby, in 1867, estimated that 11,686 whites and 493 blacks were disfranchised by the act of Congress. Also that in 1867 there were 7,791 whites and 2,796 blacks qualified who did not apply for registration. The estimate was made without any evidence to support it and is utterly valueless.

[87] The above was written after discussion of the matter with participants in the election from different parts of the State, of different political belief, and white and black.

[88] The Wilmington Journal of November 17, 1867, had an interesting comparison of the number of negroes registered with those listed for poll

Only a small number of removals from office were made by General Canby. But his appointments in some instances were criticized, and justly. For example, in Jones county the sheriff was removed and a Northern man appointed, who had lately become a resident. No official bond was required.[89] The same thing was done in Craven.[90]

The civil courts had only a nominal authority, their action being subject to revision by the military authorities. In consequence Judge Fowle resigned, being unwilling to enforce military orders that were contrary to State law. A. W. Tourgee was mentioned as his successor, and notwithstanding the fact that he had never been licensed to practice law in North Carolina, would have been appointed but for the opposition of Governor Worth. The governor recommended and secured the appointment of Colonel Clinton A. Cilley, who had formerly been in command at Salisbury, had also been agent of the Freedmen's Bureau there, had won great popularity, and after leaving the army had settled there and commenced the practice of law.[91]

A direct consequence probably, of the practical overthrow of the civil courts, was an increase in crime of every sort. The latter part of 1867 showed the beginning of the lawlessness which was to culminate a few years later. The sudden elevation of the negroes to the position of voters did not have a

tax. Only 33,000 were listed as compared with 72,932 registered. Probably one-third of those registered were over forty-five years of age and, consequently, exempt from the payment of poll tax. This left 14,771 who bore no part of the expenses of government. In Cherokee and Edgecombe counties, employers listed the negroes, with the result that Cherokee showed more listed than registered, and Edgecombe, after deduction of the estimated one-third exempt from the listed, showed the two classes equal.

[89] Executive Letters, Worth, Vol. II, p. 107.

[90] Ibid., p. 507.

[91] Ibid., pp. 55, 70.

peaceful effect on either race, and violence on the part of one was met with violence by the other.[92] The most common offence was, naturally, larceny. The military tribunals inflicted punishment in a few instances, but the State was full of wandering negroes who could not be identified readily. In Orange county nine burglaries were committed within two weeks.[93] Conditions became so bad in some sections that General Canby authorized the formation of a police force composed of loyal whites and blacks in the ratio of registration. The mingling of the races was not popular, and few counties availed themselves of the opportunity.[94]

The military force in the State was very small during the whole of 1867. In the autumn the posts were consolidated into four, with headquarters at Wilmington, Raleigh, Goldsboro and Wilmington.[95]

[92] The reports of crime were published in the Report of the Secretary of War for 1867, Ex. Docs., No. 1, p. 350, 3d Sess., 40th Cong. They show an appalling condition of affairs, but as North Carolina and South Carolina were grouped, no separate figures for the former can be given.

[93] Hillsboro Recorder, March 27, 1868.

[94] Sentinel, January 27, 1868. Jones, Craven, Lenoir, and Pitt counties had such organizations.

[95] The following table shows the number of troops and where they were stationed for most of the time:

Place.	*Companies.*	*Officers.*	*Men.*
Raleigh	1	7	..
Fayetteville	1	8	80
Salisbury	1	4	77
Wilmington	2	4	53
New Bern	1	5	140
Charlotte	1	3	74
Morganton	2	7	188
Fort Macon	1	3	99
Goldsboro	3	9	229
Plymouth	1	3	85
Total	14	53	925

In general conditions were worse in the State than during the administration of General Sickles. More dissatisfaction was expressed with the military government and more was felt. The workings of the reconstruction acts became increasingly unpopular with a majority of the white people. Bitterness too increased, particularly after the opening of the campaign for the convention.

General Canby's name became associated in the minds of many with the conditions which prevailed during the period in which he was in command, and he was personally not so well liked as General Sickles had been. In part this may have been due to the fact that he was of Southern birth. Another cause was the fact that he generally ignored the State administration, and also that he never came into the State from the time he assumed command until January, 1868.[96]

4. State Politics and the Election of 1867.

As has been noted previously,[96a] a plan originated with the minority members of the legislature for calling a convention of the people. This was rendered unnecessary by the passage by Congress of the supplementary reconstruction act. But the committee chosen to manage affairs had already called a meeting in Raleigh and published a list of persons they wished to attend. These were one hundred and forty in number and included the leaders of the opposition to Governor Worth in 1866. There were also a number of Northern radicals who had settled in the State and had shown a disposition to take an active part in politics. The primary meeting which issued the call was presided over by C. L. Harris. Its germ may be found in the meeting of the previous September when Alfred Dockery was nominated for governor. The meeting instructed Mr. Harris, "in the interests of harmony," to see the negroes

[96] Executive Letters, Worth, Vol. II, p. 53.

[96a] See p. 202, preceding.

and ascertain their wishes.[97] The determination which had now been reached by the extreme radicals was expressed by Mr. Holden in a characteristic editorial. He said on March 13th, "The people of this State have at length reached a point when they must act and restore the State to the Union, or incur the hazards of anarchy and civil war. The Union people of this State especially have borne as much and as long as they intend to bear. All honest, thoughtful, decent citizens will either unite with them in the work of restoration or retire and remain quiet. *Traitors must* take back seats and keep silent. The loyal people, thanks to Congress, are now about to take charge of public affairs. The issue is Union or Disunion. He who is not for the Union deserves to have his property confiscated and to suffer death by the law." [98] A week later he threatened that if the "rebel" leaders took any part in reconstruction they would *"pull down on their own heads that final and irrevocable ruin which they so richly deserve.* Is Governor Graham pardoned? Is Governor Vance pardoned? Congress may sweep away all pardons. There are some it *will* sweep away."

Although the original purpose of the convention was made unnecessary by the act of Congress, the call was continued and the meeting was held on March 27th. A large number of delegates, white and black, were present, representing fifty-six counties.

When the question of organization came up R. P. Dick suggested that the meeting should proceed to the organization of the Republican party in North Carolina. This had been the well-known intention of many of the delegates, and excited no surprise. Daniel R. Goodloe, the only native North Carolinian present who had a record clear of any adherence to the Confederacy or to secession, and who had been a Republican

[97] Mr. Harris had been, a short time before, probably the most determined opponent of the admission of negro testimony.

[98] Standard, March 13, 1867.

since the organization of the party, opposed this on the ground that it would prevent the co-operation of many desirable persons, if a name should be adopted which had previously been so odious to the Southern people generally, "and," he added, "to the great majority of your convention." B. S. Hedrick also opposed it and suggested that "The Union Party" should be the name adopted. Both of these opposed any permanent organization at the time. But the sentiment of the convention was overwhelmingly in favor of identification with the Republican party, and the name was adopted.

In a spectacular way the colored delegates were given a prominent place in the convention. The proceedings were opened with prayer by a colored minister, and upon organization the president was escorted to the chair by a white delegate on one side and a colored delegate on the other. The negroes made a great many speeches, but took little part in the debates. Most of the white speakers expressed delight at the advancement of the negroes to the right of suffrage The New York *Tribune* said that the convention showed that the "loyal" white people were willing to "unite with the colored men on terms of absolute equality." [99] Whether this was true or not, it cannot be denied that such seemed the case.

Resolutions were adopted by the convention declaring the full agreement of the delegates with Republican doctrine, and arrangements were made for a State organization.[100]

As was to be expected, the convention received its full share of abuse. Its members were given titles that were hardly relished by them, such as "Holdenites" and "Holden miscegenationists." The claim of the newly organized party to a monopoly of loyalty seemed worse than absurd to the Conservatives, and the leaders of the party were all distrusted by their opponents on account of their former records. Nor was the name of the party more popular in North Carolina

[99] Quoted in Standard, April 10, 1867.
[100] Ibid., April 3, 1867.

than in the other Southern States. In this expressed dislike of the Republican party the former Whigs were leaders. The Democrats, who had formerly been most bitterly hostile to the party, were not at all prominent in political affairs just now. As has been seen the State administration was in the hands of former Whigs who had opposed secession until the call for troops, and some like Jonathan Worth and Josiah Turner, until the passage of the secession ordinance. Those who had favored secession were in almost every instance in political retirement. With most of them this retirement was voluntary. They were fully conscious of defeat and ready to accept the decision and final settlement of the questions involved in the late struggle, and they did not care at this time to take any active part in politics. Most of them were convinced that things were in general out of joint, and their most acute sensation was one of regret at the failure of the Confederate cause. To arouse them from this condition of mind a change of conditions was necessary. This was accomplished by the enforcement of the reconstruction acts. In 1865 and later the Democratic party seemed dead forever in North Carolina, but the organization of the Republican party in the State under the leadership of W. W. Holden, R. P. Dick and Thomas Settle, three former Democrats, began its resuscitation.

The first manifestations of feeling were directed against the men composing the Republican party. There was no organized opposition as yet, and there was no prospect of any opposition of importance to the reconstruction acts.[101] Mr. Holden,

[101] The Sentinel of April 27, 1867, expressed very well the feeling of a great many: "Again we urge our readiness to unite our people upon the one simple platform of the Congress. We argue that only those shall vote in North Carolina whom Congress says shall vote. We agree that only those shall hold office whom the Congress says shall hold office. We agree that those disabilities shall exist as long as Congress says they shall, but no longer. This is the law. Is this not Republican? Is this not Radical enough?"

naturally, was the favored object of attack, particularly of the *Sentinel.* To the attacks of this paper Mr. Holden responded, "Every line of his (Mr. Pell's) paper containing treasonable sentiments is equal to an acre of land."

The organization of the Republican party was carried on in every county. A feature of it was the revival of secret political societies. The Heroes of America and the Union League were largely extended in membership, the latter being particularly valuable to the party in the organization of the negroes. It more than anything else made the efforts to divide the negro vote an utter failure. Such an attempt was made in Raleigh by the calling of a colored mass meeting, at which Governor Worth and several other Conservatives were asked to speak. But apparently it made no impression upon the negroes. As a matter of fact there was no general disposition evident among the Conservatives to form any alliance with the negroes.

Another means employed to assist in organizing the party was a succession of visits to the State by leaders of the national Republican party. Senator Wilson and Hon. W. D. Kelly were among those who spoke at different places in the State.

The failure of General Sickles to abolish the existing State government was a source of constant annoyance to the radical leaders. Consequently, when Congress met in July, a committee from the State was sent to Washington, headed by James H. Harris, who had become the political leader of the freedmen, to petition that the existing State administration might be removed, and, also, that Mr. Holden might be relieved from his disabilities.[102] But their efforts were unsuccessful.

As the summer advanced a division in sentiment appeared among the Republicans. The radical element had a decided leaning towards confiscation, and were, in general, inclined to

[102] Philadelphia Press, July 11, 1867; Standard, July 24, 1867.

be proscriptive. Mr. Holden favored a test oath which would disfranchise many of the opponents of the Republican party.[103] This kind of thing was persistently urged upon the colored people. Daniel R. Goodloe, who had begun the publication of a newspaper in Raleigh,[104] was foremost in opposition to this policy. His advice was always towards moderation. He said, "Listen to no man who whispers the word confiscation in your ears or disfranchisement, or injury in any form to your law-abiding white neighbors." He warned them that the result of confiscation would be general ruin to black and white alike, and advised them to be suspicious of anyone leading them by promises of the kind. "Ask them," said he, "how long they have been champions of your rights. In ninety-nine cases out of a hundred you will find that such men would have sold you to the sugar and cotton planters of the far South at any time before you were set free." [105]

The question came up more definitely at the Republican State convention which was held in September in Raleigh.[106] Over seventy counties were represented, the negro delegates predominating. In fact the convention was largely controlled by the negroes led by the Northern men present. This was shown by the debate on the election of a permanent president. General Abbott was nominated, and the nomination was opposed by General Laflin, who stated that it was bad policy to put Northern men in the important positions. General Abbott's organization, however, was too strong for the opposition and he was chosen, the colored delegates deciding, after a consultation among themselves, in his favor, and, as a peace offering to the native whites, electing Mr. Holden chairman of the State

103 Standard, March 20, 1867.

104 The Union Register.

105 Letter to Republican meeting, July 17, 1867. Register, July 30, 1867.

106 The account of the convention is gathered from the Standard, September 11, 1867, and the Register, September 6 and 13, 1867.

executive committee. Alfred Dockery had been led to believe that he would be chosen to preside and had come prepared, but to his great disgust was never mentioned during the discussion in connection with the position. The resolutions passed at the March convention were chosen as a platform. Additional resolutions were then introduced opposing confiscation and favoring unlimited suffrage and the removal of disabilities from all "loyal" men. The resolution regarding confiscation brought on a sharp debate. The majority of the colored men present[107] and quite a number of the whites were too favorable to the idea of confiscation to go on record against it, and a substitute for the resolution, expressing willingness to abide by the action of Congress in the matter, was adopted. The other resolutions were then tabled. There was evidently a strong disinclination on the part of those in control to advising a removal of disabilities, even of those who were acting with the Republican party. In fact there were a number of the Northern men present who felt that their chances of political success would be greatly lessened if there should be any general removal of disabilities. Their political ambition explains the failure to pass any resolution for the relief of the "loyal." Hatred of political opponents caused great bitterness of expression. One delegate,[108] in reply to a conciliatory speech made by James H. Harris, said, "They should be taught that treason should be made odious. Their children ought to be forced to say, 'My father was disfranchised on the ground of endeavoring to destroy the best government that ever the sun of high Heaven looked down upon.'" The whole tone

[107] A. H. Galloway, a negro delegate from New Hanover, opposed confiscation, but desired owners of large estates taxed a dollar an acre, so that the land might be sold by the sheriffs and an opportunity given the negroes to buy land.

[108] W. F. Henderson. He was indicted a few weeks later for stealing a horse or mule. Mr. Goodloe, in commenting upon this, said: "A revolutionary period like the present is particularly favorable to that

of the convention was proscriptive. Men like Mr. Goodloe, who desired harmony in the State, dissented very vigorously from the sentiments expressed, and pointed out that little sympathy could be expected from those who had not yet joined the party. As a matter of fact the leaders of the party did not desire the former political leaders of the State to join the party, knowing that it would interfere with their own plans. Mr. Goodloe declared that the action of the convention would utterly alienate the races from each other, and indicated the sentiment of the convention and its supporters to be "that white men had no rights which black men are bound to respect." [109] The ratification meetings, which followed all over the State, emphatically opposed this tendency of the convention, and Mr. Holden saw that he and his followers had been too hasty and employed a good deal of space in several issues of his paper in attempting to prove that there was no desire on his part for confiscation.[110] But he soon returned to his threatening attitude, and in speaking of the possibility of a conservative majority in the convention, he said that dire penalties would result from it, and closed with the following statement: "The man who gets in the way in this crisis of restoring the Union according to the will of the nation should not only lose the last acre of land he has, but he deserves death by the halter." [111]

A plan of centralized organization was adopted by the convention. Mr. Goodloe declared that this was intended to control the vote of the negroes in the interest of scheming whites—"to parcel out the offices among the Ring men"—and refused to acknowledge it as binding.[112] He then called for a new

sort of patriotism which Dr. Johnson declared to be the resort of 'a scoundrel."—Register, October 11, 1867. The indictment failed, but was destined to serve a purpose for his opponents later.

[109] Register, October 18, 1867.

[110] Standard, September 19, et seq.

[111] Ibid., September 21, 1867.

[112] Register, September 13, 1867.

organization of the party, declaring the other "a preposterous abortion." [113] Mr. Holden immediately "read him out" of the party. Mr. Goodloe retorted with considerable force, expressing a doubt as to the power of Mr. Holden in the matter.[114] Finally the executive committee met and passed a set of resolutions denying any desire for confiscation. In the meantime an address to the people was prepared by John Pool, setting forth the conservative Republican doctrine. With this view men of the type of R. P. Dick and Charles R. Thomas agreed.[115]

As may be supposed, these disagreements in the new party were watched with delight by its opponents. As has been seen a feeble, half-hearted attempt was made by some of them to divide the negro vote. This was largely the work of the *Sentinel,* which was still in favor of voting for a convention. But this action was unpopular and the position of the conservatives was finally taken—to make the fight on the question of negro suffrage, declaring their unqualified opposition to it and denying the constitutionality of the whole reconstruction policy of Congress. This decision was largely due to the advice of William A. Graham.

A call for a State Conservative convention was issued by the *Sentinel* and later by over one hundred citizens of Wake County, and in the latter part of September it met in Raleigh. The meeting did nothing beyond passing resolutions denouncing the action and proscriptive tendency of the Republican

[113] Register, September 24, 1867.

[114] Mr. Goodloe said: "Seriously we would respectfully suggest to Mr. Holden the propriety of his getting inside the Republican party, before he attempts to read out of it men who were of it and with it when it was founded. If he were not a disfranchised rebel, he would be but a probationer of less than six months standing; and his efforts to put us out, who, in our humble way, assisted in organizing one of the first Republican organizations in the United States, may seem to some people immodest, not to say impudent."—Register, September 20, 1867.

[115] Register, October 1 and 22, 1867.

convention. Many of the Conservatives, including Governor Worth, were opposed to any organization. The fact is, they were so utterly discouraged and disorganized that it seemed impossible to reach any settled policy. Governor Worth had issued an address to the people urging them to register and vote, but no advice had been given as to how they should vote. Another Conservative meeting was called, and several prominent men were invited to attend and speak. William A. Graham wrote a letter to this meeting, in which, after expressing his unqualified opposition to any recognition of the right of the negroes to vote, he advised the Conservatives to vote against a convention.[116] B. F. Moore, although denying the constitutionality of the reconstruction acts, wrote the meeting that he would take no part in it as he favored a convention. No definite action was taken by the meeting on the question of negro suffrage, but the position of the Conservatives was settled from this time on. The *Sentinel* still persisted that it did not favor a white man's party, but in this respect its influence was gone.

As will be remembered, the supplementary reconstruction act required that a majority of those registered had to take part in the election to make it valid. Despairing of a majority of the vote cast, a plan was now devised by the Conservatives in several of the Southern States for accomplishing the defeat of the convention. All Conservatives were urged to register and vote for delegates for a convention, but to cast no vote on the queston of holding a convention. But General Canby defeated this project by an order to the effect that no votes for delegates should be counted unless accompanied by a vote on the convention question.[117] Conservative candidates were nominated in almost every county, but their canvass was listless.

The election was held November 19th and 20th. The result was as follows:

116 Sentinel, October 16, 1867.

117 Wilmington Journal, November 15, 1867.

Registered voters	179,653
Votes cast	125,967
For convention	93,006
Against convention	32,961
Not voting	53,686

Only two counties, Orange and Currituck, had a majority opposed to a convention. The vote for a convention was not only a majority of the votes cast, but also a majority of the registered voters. Those who failed to vote were for the most part white, very few of the negroes failing to exercise the privilege.[118]

By the failure of the Conservative voters to exercise their right the Republicans obtained an enormous majorty in the convention. No explanation can be given of this failure to vote beyond the widespread feeling that it was useless to resist Congress and that, consequently, it would be without profit to gain a majority in the convention.

Numerous accusations of fraud were made by the Conservatives, but, as there was no hope of redress, were not pressed. That fraud existed is known, but to what extent is impossible to ascertain.[119] In one instance at least and probably in more a candidate for the convention was also an election official.[120]

The day of the election the *Sentinel* took the position that a white man's party was necessary, and with this declaration as a platform the Conservatives rallied for the remainder of the period of reconstruction.

[118] General Canby, by means of an estimate, proved to his own satisfaction that 11,210 registered negroes failed to vote. Apart from any question of the accuracy, in general, of estimates made by proportion, it is a known fact that the figures could not be correct.

[119] The writer has been informed by a Republican, prominent at the time, that fraud was practiced generally. In Rockingham County the polling places were changed on the Saturday night preceding the election and no public notice was given. In this way many white voters were prevented from voting.—Sentinel, November 23, 1867.

[120] Gen. Byron Laflin in Pitt County.

CHAPTER VI.

THE CONVENTION OF 1868 AND ITS WORK.

1. The Convention of 1868.

At the call of General Canby the convention met in Raleigh on January 14, 1868. The Republicans had a majority of ninety-four, the Conservatives having elected only thirteen delegates. Of the one hundred and seven Republicans sixteen were "carpetbaggers" and thirteen were negroes. Many of the "carpetbaggers," or "squatters," as they were called in North Carolina, had formerly been officers in the Union army. The more prominent of them were General Joseph C. Abbott, a native of New Hampshire and formerly an editor and lawyer; Lieutenant Albion W. Tourgee, a native of Ohio, a graduate of Rochester University and a former officer of the 105th Ohio volunteers; General Byron Laflin, a native of Massachusetts, formerly colonel of the 34th New York Infantry, and Major H. L. Grant, of the 6th Connecticut volunteers[1] and a native of Rhode Island. Of the other "carpetbaggers" David Heaton had been a special agent of the Treasury Department and had settled in New Bern; G. W. Welker was a native of Pennsylvania who had come to Guilford county before the war as a minister; S. S. Ashley was a native of Massachusetts and a minister, little else being known of his antecedents;[2] John R. French was a native of New Hampshire who had been a newspaper editor and twice a member of the Ohio House of

[1] He was a paymaster in the volunteer army in the late war with Spain.

[2] The Sentinel constantly asserted that Ashley was of negro blood, and quoted as proof an account in the New York Observer of the proceedings of the American Missionary Association, which so classed him. Sentinel, May 28, 1868.

Representatives. He had come to North Carolina as a direct tax commissioner.[3]

Of the white native North Carolinians in the convention none had been previously of any prominence in the State, few being known at all outside their own counties. W. B. Rodman had been known as an able lawyer and as an earnest advocate of secession. He, with Calvin J. Cowles and J. M. Turner, was disfranchised under the reconstruction acts, but the fact that they were Radicals prevented any action being taken to unseat them.

Several of the colored delegates were, comparatively speaking, men of considerable ability. James H. Harris was an orator of great power and had a fair education. With J. W. Hood and A. H. Galloway he shared the leadership of the colored members.[4]

None of the Conservatives were men of political prominence. The two who at once took the most prominent part in the debates of the convention were Captain Plato Durham and Major John W. Graham, both ex-Confederate soldiers and men of education.[5]

Temporary organization was effected the first day. The next day permanent organization was completed by the election of officers. Calvin J. Cowles was chosen president. The fact of his disabilities was ignored at the time, but later in the session a committee was appointed to examine and make a report in regard to the validity of his signature, as he was not a registered voter. The committee presented an elaborate report, which declared that the general commanding was the judge of the qualifications and election of members.[6] The conven-

[3] The other "squatters" were Edwin Legg, W. A. Mann, D. J. Rich, A. W. Fisher, W. H. S. Sweet, F. F. French, J. H. Renfrow, and D. D. Colgrove. The four first mentioned had been Union soldiers.

[4] The other colored members were Wilson Carey, John Hyman, J. H. Williamson, Henry Eppes, J. J. Hays, H. C. Cherry, P. D. Robbins, Bryant Lee, C. D. Pierson, and Cuffee Mayo.

[5] The latter, who was a son of William A. Graham, had been, before the war, an instructor in the University of North Carolina.

[6] Journal, p. 400.

tion had already decided that Cowles should occupy the chair for the rest of the session, regardless of the finding of the committee.[7] The convention was thus inconsistent, for it summarily declared unseated two Conservative members whom General Canby had declared elected, and neither of them was summoned before the committee before the resolution declaring their seats vacant was introduced.[8] The election of Mr. Cowles caused general surprise in the State, as it was supposed that General Abbott and Mr. Heaton desired the position and that one of them would be elected. Each was ambitious, but probably each concluded that more reputation and influence could be gained on the floor of the convention than as its presiding officer. Mr .Cowles was a man of mediocre ability and attainments and was thoroughly under the control of the "carpetbaggers." Their support, combined with the fact that he was a close connection by marriage of Mr. Holden, procured his election.

An effort was made immediately after organization to secure the passage of a resolution declaring that the convention would not consider any legislative proposition until a constitution had been adopted. This met with little approval and was referred to a committee and there suppressed.

On the third day action was taken in regard to criticism of the convention by the newspapers and their derisive comments upon it. The day the convention met the *Sentinel* had voiced the sentiment of the majority of the white people of the State, saying, in part:

"THE CONVENTION (SO CALLED.)

"The pillars of the Capitol should be hung in mourning today for the murdered sovereignty of North Carolina. In the hall where have been collected, in days gone by, the wisdom,

[7] Journal, p. 372.

[8] These were Messrs. Williams of Sampson and Marler.—Journal, p. 314.

the patriotism, the virtue of the State, there assembles this morning a body convened by an order of Congress, in violation of the Constitution of the United States, and in utter disregard of the constitution of North Carolina, a body which, in no sense as a whole, represents the true people of the State, which has not been elected according to our laws nor chosen by those to whom those laws have committed the right of suffrage. In the seats which have been filled by some of the best and truest sons of North Carolina will be found a number of negroes, a still larger number of men who have no interests or sentiments in common with our people but who were left in our midst by the receding tide of war, and yet others who have proven false to their mother and leagued with her enemies."

The other Conservative papers at once took up the nickname "So Called" and it was used during the whole session whenever the convention was mentioned. In addition the *Sentinel,* in reporting the proceedings of the body, designated the colored members by placing "negro" after their names. This caused much indignation in the convention,[9] and Mr. Abbott offered a resolution excluding from the hall of the convention the reporters of papers which treated the convention or its members with disrespect. After a heated debate the resolution was passed, several of the moderate Republicans present voting with the Conservatives against it. The Conservative delegates then entered a formal protest. This was objected to and consequently was not received at the time. Later, however, the President decided to allow it to be entered upon the journal. By the resolution it was left to the president to decide what reporters should be excluded. For some time no one was refused admittance, but finally the reporter of the *North Carolinian* was expelled from the hall for the language

[9] J. W. Hood, a negro delegate, in protesting against the language of the Sentinel, said that there was not a negro in the convention.

of his report of the proceedings, which, he avowed, was intended to be insulting, if it were possible.[10]

The Conservatives realized fully their utter helplessness, and decided to act in such a way as to make the policy of the radicals stand out clearly. Throughout the entire session, led by Durham, Graham and Hodnett,[11] they were a constant source of annoyance and trouble to the Republicans.

The convention, according to precedent, had very few offices within its gift, and strange to say created comparatively few.[12] The most useless, probably, was that of sergeant-at-arms. This was created to satisfy the claim of Colonel I A. Peck, a former Union soldier, who had been very active in the organization of the Republican party in the State. A reporter was also elected to make a place for another faithful party-worker.[13] The idea of official reports of the debates also appealed to some of the delegates.[14]

[10] Journal, p. 97. The language was as follows: "The performance began at the usual time." The word "negro" was, also, prefixed to the names of the colored delegates.

[11] Mr. Hodnett was elected as an independent candidate and was supposed to be a moderate Republican. But he soon became disgusted with the radicals and acted throughout with the Conservatives.

[12] So far as can be ascertained by the writer, the following is the list of the employees of the convention: 1 reporter at $8 per day; 1 secretary at $8; 1 assistant secretary at $4; 1 engrossing clerk at $6; 5 clerks at $4 each; 2 doorkeepers at $2 each; 1 sergeant-at-arms at $8; and 3 servants at $2 each. Mr. Ashley, early in the session, introduced a resolution providing that the term "servitors" should be substituted for employees as more respectful. This was evidently designed to win favor with the negroes.

[13] Joseph W. Holden, the junior editor of the Standard and the son of W. W. Holden, was chosen. He was already the reporter of the debates for the Standard. The reports were never published in book form.

[14] Wilson Carey, a colored delegate, said he favored the publication of the debates, as he intended to "expatiate" to the convention and wanted his words recorded in the "archives of gravity."

The convention by comparison with all previous public assemblies in North Carolina was exceedingly expensive and extravagant. The *per diem* of members was set at $8, with twenty cents mileage each way. This was a compromise between the views of General Abbott, who wished it to be $10, and quite a number of others who, considering the condition of the State finances, wished something very low. Attempts were made by several members at different times to have a limit set to the number of days for which remuneration should be received. Mr. Tourgee wished the *per diem* reduced to $4 after thirty days. A resolution providing that after March 12th no member should receive any pay was characterized as discourteous.[15] Every proposition of the kind was voted down, almost without debate. The compensation of the president was fixed at $12 per day, with the same mileage as the other members. At the close of the session he was directed to remain in Raleigh and sign warrants, receiving for his services $6 per day while so employed. Absence on the part of the delegates was frequent, and a resolution providing that no member should receive pay for the days he was absent met with prompt rejection. Many members left before the end of the session, and with the consent of the convention drew their pay to the time of adjournment.[16]

Fraud too was evident in the mileage accounts. For instance the member from Harnett county, who could not have lived at the most more than fifty miles from Raleigh, and who actually lived only about thirty miles away, charged mileage for 262 miles each way.[17] There were numerous cases of this kind, but the majority seemingly had no conscience in the matter, and although a resolution was passed directing the sheriffs

[15] Standard, March 3, 1868.

[16] Journal, p. 451.

[17] Auditor's Report, 1868, p. 62. The Sentinel said that he had probably gone to the Cape Fear boat, which was further away than Raleigh, and then had come by way of Wilmington.

of all the counties to publish the names, residences and correct mileage of all the members, it was never enforced. Fraud was common in the purchase of supplies also. Prices far above those of the market were charged and paid, particularly for wood and stationery.[18]

Little regard was had for the necessity of completing their work. For a considerable time only one session was held each day. Later two were usually held. When the Republican State Convention met in Raleigh the convention only met each day for roll call, that pay might be drawn, and then adjourned that the members might take part in the proceedings of the Republican meeting.

The question of the payment of the members and officers of the convention came up soon after the convention met. At once a loan of $10,000 was authorized, in order that mileage might be paid.[19] An ordinance was then passed directing the State treasurer to pay the *per diem* of the members from the funds in his possession. But Mr. Battle refused to recognize the convention and declined to pay the members, claiming that he was under bond to use the funds in his hands for the purposes for which they had been collected, and that the convention would have no legal status until its work was accomplished and a new State government was established. As additional ground for his refusal he quoted the act of Congress of March 23, 1867, which directed the convention to provide for its expenses by levying a tax.[20] The matter was referred to General

[18] Col. J. T. Deweese, a register in bankruptcy, furnished wood at $6 per cord, when the market price was $4.75. The Conservatives made such an outcry at this that $1 per cord was deducted from his next account. Journal, p. 425.

[19] Journal, p. 83. The Conservative press said that when it was announced that the mileage would be paid at one of the banks in the city, there was such a rush for it that it was impossible to keep a quorum present in the convention. Sentinel, February 6, 1868.

[20] Journal, p. 80.

Canby who replied that the treasurer was correct in his decision, but informed the convention that as soon as they should have levied a tax for the purpose, he would order the treasurer to pay the members from the funds on hand.[21] A tax was accordingly levied, and the treasurer, thus protected, cashed the warrants of the convention. The tax was 1-20 of 1 per cent on all real and personal property, and consequently bore not at all upon the leaders of the majority, and in fact very little, comparatively, upon the majority of the Republican party. In the meantime various other plans had been suggested for raising money. One of the "carpetbaggers" introduced an ordinance providing for the negotiation of a loan of $500 for contingent expenses.[22] This was adopted.[23] A negro delegate introduced a resolution asking Congress for a loan of $3,000,000.[24] Resolutions of this kind were frequent during the whole session.

The expenses of the convention for *per diem* and mileage amounted to $86,356.89. Printing and stationery increased this by about $5,000. In the matter of expense, North Carolina, compared with most of the other Southern States, escaped very easily. But the expenses far exceeded those of any other convention in North Carolina.[25]

Comparatively little opportunity for corruption existed, but charges were introduced that bribery had been used to obtain

[21] Journal, p. 125.
[22] Ibid., p. 132.
[23] Ibid., p. 143.
[24] Ibid., p. 142.

[25] The expenses of the State conventions of North Carolina, beginning with that of 1835, and exclusive of printing, which was of little cost in the case of all of them, were as follows:

Date.	*No. Sessions.*	*Days.*	*Cost.*	*Per Diem.*	*Mileage.*
1835.....	1	38	$8,330.00	$1.50	5 cts.
1861.....	4	108	56,469.02	3.00	5 "
1865.....	2	43	30,514.00	4.00	10 "
1868.....	1	55	86,356.89	8.00	20 "
1875.....	1	31	15,596.98	4.00	10 "

certain railroad legislation[26] and a committee of inquiry was asked for. President Cowles appointed on the committee Plato Durham, who had introduced the resolution, S. S. Ashley and James H. Harris,[27] who was one of the members at whom the resolution was aimed. The two first mentioned were not on speaking terms with each other in consequence of a difficulty they had had shortly before on the floor of the convention, and Mr. Durham had never recognized any of the colored delegates. It was evident that the intention of the president was to prevent any inquiry from being made. The next day Harris retaliated by a resolution providing for an investigation as to whether Plato Durham, "the delegate (so called) from Cleveland," had not obtained his election by fraud.[28] Neither committee succeeded in discovering anything, and both were soon discharged.[29]

Notwithstanding the fact that the main purpose, supposedly, of the convention was to frame a constitution, no great eagerness was manifested to begin the work. Committees were appointed to report the various articles, but it was quite a long time before they reported. The "carpetbaggers" controlled the committees, capturing the chairmanships of ten of the nineteen standing committees and of most of the special committees. They were thus given an opportunity to put their constitutional theories into definite form. The result of this was that there were many differences from the former constitution of the State. Individually or collectively the "carpetbaggers" controlled the convention absolutely.

An ordinance was early introduced providing for some relief to the people by means of a stay law.[30] After it was ascertained from General Canby that he would enforce such an

[26] The matter referred to was the endorsement by the convention of certain bonds of the Wilmington, Charlotte, and Rutherford Railroad. Ordinances, p. 43.

[27] Journal, pp. 171, 178.

[28] Ibid., p. 178.

[29] Ibid., pp. 426, 473.

[30] Ibid., p. 32.

ordinance by military order one was passed providing that civil proceedings founded on causes of action prior to May, 1865, should be suspended until January 1, 1869, or until the new constitution should go into effect.[31] General Canby, at the request of the convention,[32] made this ordinance operative at once.[33] The debate on the ordinance led to a discussion of the condition of the State, and there was at once noticeable, in quite a number of the delegates, a decided sentiment in favor of repudiating the entire State debt. The most earnest advocates of this were A. W. Tourgee and his colleague from Guilford, G. W. Welker. This appeared more fully in the debate on the section of the Bill of Rights, guaranteeing the public debt of the State. Mr. Tourgee declared that the new State of North Carolina, which they were constructing, was under no obligation to pay the debts of the old State and that it would be ruinous to do so. He said, "He would be a fool who would emigrate to North Carolina if the new State is to be saddled with the debts of the old." This view was not shared by the majority, and the section was adopted. Mr. Abbott characterized Mr. Tourgee's doctrine as infamous, and Galloway, Harris and Hood, of the colored delegates, also expressed their horror at his proposition.[34] It was suggested several times that the convention should forbid the collection of all private debts incurred in aid of rebellion, and as one delegate expressed it[35] "give the citizens the same right as the State."[36] Later an ordinance was passed directing the next General Assembly to provide for the payment in cash of the interest falling due after January, 1869, on the State bonds dated after January 1, 1866. All the coupons due at the time of the passage of the ordinance were ordered to be funded in a new issue of bonds.[37] This was opposed by the Conservatives, who declared that it was for the

[31] Ordinances, p. 45.
[32] Ibid., p. 125.
[33] General Orders, No. 57. Sentinel, April 16, 1868.
[34] Sentinel, February 17, 1868.
[35] S. W. Watts.
[36] Sentinel, February 17, 1868.
[37] Ordinances, pp. 84-85.

benefit of Northern men who held the bonds and that the lobbyists had secured its passage.[38]

Numbers of innovations were proposed and adopted through the influence of the Northern members. Their main argument was usually that the proposed provision was in some New England or other Northern constitution. Every effort was made to reconstruct the State on such a basis, and the only matter of surprise is that the resulting constitution was not more foreign and extreme in its character. The main reason seems to have been in the rivalry between the three "carpetbag" leaders Abbott, Heaton and Tourgee. In their efforts to strengthen their respective positions, they yielded in many things to the natives of the State. But as it was there was a very radical difference in the new constitution from its predecessors.

One of the changes which was most condemned by the opposition, and even by many Republican lawyers in the convention, was the abolition of the distinction between actions at law and suits in equity. This has since been acknowledged to have been on the whole a wise change.[39] Provision was also made for a commission to prepare rules of procedure and practice in accordance with this change and also to codify the laws. Victor C. Barringer, A. W. Tourgee and W. B. Rodman were appointed as commissioners for a term of three years with salaries of $200 per month.[40] Mr. Tourgee had been licensed

[38] There was quite a body of lobbyists, the most prominent of whom was General Milton S. Littlefield, a native of New York, and formerly colonel of a colored regiment. He was said to have been lately concerned in an extensive lumber steal in Pennsylvania and had come South for new and better opportunities. He became very prominent in 1869, both in North Carolina and Florida, from his connection with the bond frauds in both States.

[39] It is, however, admitted that, as a result of the change, there has been a development of a lack of accuracy and care in the lawyers as compared with those under the old system.

[40] Ordinances, p. 79. For at least fifteen years after the adoption of the constitution, the courts were full of cases brought to secure interpretation of the instrument.

to practice law in Ohio, and largely for his benefit an ordinance had been passed a short time before providing that all persons who had been admitted to the bar in other States could be admitted in North Carolina without examination, upon the production of evidence of a good moral character and the payment of the required fees.[41] Later the judiciary committee was instructed to report an ordinance which would allow all citizens of the State who were of good character to practice upon payment of the necessary fees.[42]

Another change in regard to the courts was even more criticised, and with more justice. The election of judges was taken from the General Assembly and put in the hands of the people, and the term of office was changed from life to eight years. The number of Superior Court judges was increased to twelve. This was a necessary increase, for the existing courts were over-crowded, and emancipation had largely increased the work of the courts. The Conservatives opposed the increase as a useless extravagance and as designed to furnish places for Republican lawyers who were ambitious to be on the bench. Judging from the number of aspirants it is not improbable that it was welcome to many of the members of the bar.

Naturally a question which arose early in the debate on the constitution was that of political disabilities. Two features of the subject were considered. Regarding the disabilities imposed by the Fourteenth Amendment, a committee was appointed to prepare a list of those persons whom the convention should recommend to Congress as suitable objects for relief. After a time the names of about six hundred persons, most if not all of whom were acting with the Republicans, were presented and a violent debate followed, Mr. Durham leading the opposition and Mr. Tourgee defending the report. The former went on record, characterizing it as "a fraud upon the people

[41] Ordinances, p. 109. [42] Ibid., p. 123.

of North Carolina and so intended to be." [43] Several of the Republicans favored a general removal of disabilities, but the majority were strongly opposed to such a thing, and all efforts at amendment of the resolution introduced by the committee failing, it was adopted.[44]

The question of the qualifications for voting and holding office in the State then came up. The majority of a committee, appointed to consider the subject, reported a proposed article of the constitution providing for an unqualified manhood suffrage.[45] It also provided that all persons who denied the existence of a Supreme Being or who had been convicted of a felony or of treason should be disqualified for holding office under the State government.[46] Three minority reports were submitted. The first, signed by two native Republicans,[47] provided for the disqualification for suffrage of all those who had ever attempted to prevent the exercise of the right of suffrage by any means, and of all those disqualified for holding office by the proposed Fourteenth Amendment, the removal by Congress of these disabilities operating to remove the disability imposed by the State constitution. It also provided an oath to be taken before registration.[48] The

[43] He also said: "The secretary may take my words down. I do not care for the secretary or the convention either." Journal, p. 411.

[44] Messrs. Laflin, Legg, and Rice, of the "carpet bag" contingent, favored a general removal of all disabilities. Journal, p. 413.

[45] Conviction of a felony did not operate as a disqualification for the suffrage.

[46] Journal, p. 232.

[47] Messrs. Candler and Congleton.

[48] Journal, p. 234. The oath was as follows: "I do solemnly swear, (or affirm) that I will support and maintain the Constitution of the United States and the Constitution of the State of North Carolina; that I will never countenance or aid in the secession of the State from the United States; that I accept the political and civil equality of all men; and that I will faithfully obey the laws of the United States and encourage others so to do. So help me God."

two Conservatives on the committee submitted the second minority report. This stated that the right of suffrage was not inherent and that as the great mass of the negroes were not prepared for the exercise of the privilege, there was no reason why it should be extended to them. Denying the constitutional power of Congress to prescribe who should vote in North Carolina, and declaring that the whole scheme of reconstruction was for the advancement of party purposes by "Africanizing" and "Radicalizing" the South to offset the loss of electoral votes elsewhere, the signers of the report recommended that North Carolina should refuse to alter her constitution under dictation by Congress—to "confide the power of making laws to those who have no property to protect, and to bestow the right to levy taxes upon those who have no taxes to pay." [49] The third report, submitted by a "carpetbagger," agreed with the majority report, except that it recommended that the classes debarred from holding office by the Fourteenth Amendment should also be debarred by the State until the legal removal of disabilities.[50]

The debate on the question opened with a great deal of heat, and with some interruptions lasted for three weeks. There was no doubt of course as to negro suffrage; universal suffrage was not so certain. There were known to be many who favored some limitation so far as the Conservatives were concerned. Mr. Holden was favorable to some plan of this kind.[51] During the debate several propositions were made. One delegate favored an article which would prevent those then laboring under disabilities from ever voting;[52] another favored disfranchising all those who should vote against the constitution adopted

[49] Journal, p. 235.

[50] He probably meant removal by the State; otherwise the provision was useless on account of the Fourteenth Amendment.

[51] Standard, February 3, 1868.

[52] Sentinel, February 22, 1868.

by the convention;[53] while still a third desired that power should be given the county boards of registration, the members of which in all cases should be required to take the "iron-clad" oath, to disfranchise any person who aided or used his influence for the Confederacy, or who had thrown any obstacles in the way of reconstruction.[54] A seemingly favorite proposition was one to require an oath which should express a change of opinion from the past and the promise of good conduct for the future.[55] The Conservatives gave notice at the beginning of the debate that any imposition of disabilities as regarded the right of suffrage would result in the necessity of permanent military occupation of the State by the United States,[56] as any government that might be established under such a constitution would fall the day that troops were withdrawn. Immediately, and apparently as a threat, the amnesty act which had been passed by the General Assembly in 1866 was repealed.[57] The majority report was then adopted without change.

[53] Sentinel, February 22, 1868. This member, E. W. Jones, was probably, the most bitter and proscriptive of all the members.

[54] Standard, January 24, 1868.

[55] An oath suggested by General Abbott is a fair type of those proposed. It is as follows: "I do solemnly swear, (or affirm) that I am truly and devotedly attached to the Union of all the States and opposed to any dissolution of the same; that I entertain no political sympathy with the instigators and leaders of the rebellion, or with the enemies of the Union, nor approbation of their principles or purposes; that I will, neither by word or act, encourage or countenance a spirit of sedition or disaffection towards the government of the United States, or the laws thereof, and that I will sustain and defend the Union of these States and will discourage and resist all efforts to destroy or impair the same. So help me God."

[56] See speech of John W. Graham in Sentinel, February 25, 1868. He reminded the Republicans that the very men whose punishment they were then considering, had opposed a test oath in 1862. The test oath proposed in 1862, it will be remembered, was defeated largely through the efforts and eloquence of his father, William A. Graham.

[57] Ordinances, p. 69. See page 173 preceding.

The other chief matter of party conflict was the question of the division of the races. Early in the debates on the constitution the Conservatives commenced to introduce resolutions or amendments designed to put the Republicans on record on the subject. The first of these was a series of resolutions which, after expressing the desire of the people of the State to be restored to constitutional relations with the Federal government, declared that the reconstruction acts were unwise, unjust and oppressive; that the white and black races were distinct by nature, and efforts to abolish such distinctions were crimes against nature; that the government had been instituted by the whites and should be controlled by them, and appealed to the masses of the Northern people for relief," from the degradation now heaped upon them." The white Republicans were not ready to vote for this or against it, and consequently postponed it indefinitely.[58] Another attempt of the kind was made by the Conservatives in a proposed amendment to the report of the committee on the Executive Department, providing that no person of African descent should be eligible to any executive office. One of the negro members had already introduced an amendment to the effect that either the governor or lieutenant governor should always be a negro.[59] The latter was withdrawn later,[60] and the former, needless to say, was overwhelmingly defeated.[61] A proposition made by Plato Durham[62] that the qualification for governor and lieutenant-governor should be the ability to read and write, met with the same fate. In the case of the militia and public schools the convention refused to require separation of the races.[63] A proposed section

[58] Journal, pp. 32, 35.

[59] This was probably the work of some Conservative sympathizer.

[60] Sentinel, January 28, 1868.

[61] Journal, p. 162.

[62] Ibid., p. 158.

[63] Ibid., pp. 175, 287, 343. Mr. Graham introduced a resolution providing for separate commands in the militia, and also that no white man should ever be required to obey a negro officer.

of the Bill of Rights prohibiting the intermarriage of the races was promptly tabled,[64] and all marriages that had taken place under military authority, including several cases of marriage between whites and blacks, were validated.[65] But the same day a resolution was introduced by a colored member and passed, declaring it the sense of the convention that the intermarriage of the races should be discountenanced and that separate schools should be established.[66] And finally a proposed section which provided that no white child should ever be apprenticed to a negro master and that no negro guardian should ever be appointed for a white ward was also rejected.[67]

The constitution was finally drafted and adopted by the convention. The Conservatives on the final vote all voted against its adoption, and consequently none of them signed it.[68]

The convention, while forming a constitution, was also engaged in other matters. The State was divided into congressional districts, with few changes from the former division. This led to a sharp debate among those who had aspirations for seats in Congress[69] Fourteen divorces were granted by the convention, and the Conservatives were thus furnished with further ground of attack. Several of the Republican members also opposed this action of the convention.[70] A resolution was passed thanking the House of Representatives of the United States for the impeachment of President Johnson.[71] Just before adjournment a resolution was passed directing the next General Assembly to devise some plan, if practicable,

64 Journal, p. 216.

65 Ordinances, p. 86.

66 Journal, p. 473.

67 Ibid., p. 483.

68 Mr. Durham moved that the Capitol bell be tolled while the signatures of the delegates were being affixed.

69 Sentinel, February 21, 1868.

70 One Republican delegate, in protest, introduced an ordinance which provided that all men in North Carolina were thereby divorced and at liberty to marry again.

71 Ordinances, p. 126.

to locate every citizen upon a freehold.[72] In this connection one delegate wanted a loan of $10,000,000 negotiated "to provide homes for the homeless and for agricultural purposes." [73] This he declared was chiefly to be used for the negroes in payment for their long labor without reward, their faithful service during the war and their devotion to the Republican party.

Most of the daily sessions of the convention were very stormy. The Conservatives were few in number, but aided by the press they seemed able to provoke their opponents to anger at will. Nor were the relations of the Republicans among themselves always the best, and disputes arose several times when the chair was powerless to restore order.[74]

Towards the middle of the session Mr. Holden recommended that the "gag law" should be strictly enforced as regarded the Conservative members, by means of calling the previous question.[75] Possibly this, along with the hope of damaging Mr. Holden's political prospects, caused a Conservative member to introduce a resolution providing for an inquiry into Mr. Holden's complicity in the murder of President Lincoln, through his editorials in the *Standard* calculated to inspire an assassin.[76] The reading of the resolution was not finished before objection was made to its reception, and it was returned to the member who introduced it, as was his protest, the next day, against the action of the convention.[77]

After providing for submitting the proposed constitution to the people and for holding an election for State officers the

[72] Ordinances, p. 129.

[73] Journal, p. 119.

[74] Mr. Tourgee, on one occasion, engaged in an altercation with the president and was, at his order, arrested for disorderly conduct. He appealed to the convention and, by its vote, was released.

[75] Standard, February 8, 1868.

[76] Ibid., June 5, 1861. "Who will plot for the heads of Abe Lincoln and General Scott?" Mr. Holden, in 1868, denied the authorship of the editorial.

[77] Sentinel, March 5 and 6, 1868.

General Assembly and members of Congress at the same time, under the direction of the military authorities, the convention adjourned on March 17th. This adjournment was *sine die,* unless the convention should be called into session by the president before January 1, 1869. It had been in session fifty-five days, and in addition to the constitution had adopted fifty-seven ordinances and fifty-six resolutions.

After the signing of the constitution, on the day before adjournment, the convention took a recess which was spent in singing and horseplay. The next morning the same thing was done and General Milton S. Littlefield was invited to address the convention and sang "John Brown," the delegates joining in the chorus. Other songs sung were "Hang Jeff. Davis," "Yankee Doodle" and a number of negro melodies. Any departure from the dignity thought worthy of a legislative body had been previously unknown in North Carolina, and the amazement and disgust it caused was increased by the choice of songs. The *Sentinel* the next day headed its account of the proceedings as follows:

"THE CONSTITUTIONAL CONVENTION (SO CALLED.)

The Disgraceful Closing Scenes! Corn Field Dance and Ethiopian Minstrelsy!! Ham Radicalism in its Glory!!!"

Amidst this came to an end the "Mongrel Convention," characterized by the *Standard* as "one of the ablest, most dignified and most patriotic bodies that ever assembled in the State." [78]

2. Constitutional Changes.

The new constitution as submitted to the people differed radically from the former one. Apart from the fact that the general plan of government was of the type of the American State

[78] Standard, February 21, 1868.

governments, it was practically an overthrowing of the institutions of the State. Much that was utterly foreign to the customs and ideas of the people was introduced, and to the minds of many the best features of the old constitution were omitted or amended beyond recognition.[79]

In the Bill of Rights, the original of which had been adopted in 1776, there was less change than in any other part of the fundamental law. But quite a number of provisions were inserted. The chief of these were as follows: All men were declared equal; the right of secession was denied, and the paramount allegiance of all citizens to the United States was affirmed; the public debt of the State was declared valid, and the war debt was repudiated; slavery was prohibited; the suspension of the writ of *habeas corpus* was forbidden; the people were declared entitled to the privilege of education;[80] the legislative, executive and judicial departments of government were declared forever separate and distinct; the freedom of the press was guaranteed, as in the former Bill of Rights. but individuals were held responsible for abuse of this freedom; the quartering of soldiers upon citizens in time of peace was forbidden; it was provided that the courts should always be open, and in criminal cases greater protection was guaranteed defendants than in the original, though not more than was enjoyed under the laws of the State and the usage of the courts; and finally it was declared that all rights and powers not delegated by the constitution should be retained by the people.

In the Legislative Department greater changes were made. The name of the lower house of the General Assembly was changed from the House of Commons to the House of Repre-

[79] The original constitution was adopted December, 1776. It was amended by the convention of 1835, and the property qualification for voting for State Senators was abolished in 1857.

[80] This was provided elsewhere in the Constitution of 1776. See Sec. 40.

sentatives. The property qualification for members of both houses was abolished,[81] and they were obliged to take an oath of allegiance to the United States before taking their seats. Senators were required to be at least thirty years of age. The elective Council of State was abolished and replaced by one composed of the executive officers of the State.

In the Executive Department three new offices were created: Lieutenant-Governor, Superintendent of Public Works and Auditor. The latter replaced the office of Comptroller which had been created by act of the General Assembly.[82] The election of these officers, with that of the other State officers which had formerly been in the hands of the General Assembly, was put into the hands of the people. The property qualification for governor was abolished,[83] and his term of office, together with that of the other State officers, except attorney-general, was increased from two to four years. Only two years previous residence in the State, instead of five, was required for the governor. He was given power to commute sentences in addition to the pardoning power. All nominations of the governor had to be confirmed by the Senate. Provision was made for a Bureau of Statistics, Agriculture and Immigration.

In the Judicial Department the most complete change was made. All distinctions between actions at law and suits in equity and the forms of such actions were abolished. Only one form of action, the civil suit, could be brought in the State. Feigned issues were abolished, and it was provided that the fact at issue should be tried by order of court before a jury. The county courts were abolished and a large part of their

[81] Previous to this, a Senator had to have been possessed, for one year before his election, in the county from which he was elected, of 300 acres of land in fee. A member of the Commons had to have been possessed, for six months before election, of 100 acres of land in fee or for life.

[82] Revised Statutes 1854, Chap. 23.

[83] Previous to this a freehold in lands or tenements of $1,000 was required.

powers and duties were given to the clerks of the Superior Courts. The number of the Supreme Court justices was increased from three to five, and that of the Superior Court judges from eight to twelve. Their election and also that of the solicitors was taken from the General Assembly and given to the people. The term of office of judges was changed from life or good behavior and made eight years. The election of clerks, sheriffs and coroners was taken from the county courts and put in the hands of the people.

Regarding taxation the constitution provided that the proceeds of the capitation tax should be applied to education and the support of the poor. Provision was made for the payment of the interest on the public debt and for the creation, after 1880, of a sinking fund for the payment of the principal. The General Assembly was prohibited from incurring any indebtedness until the bonds of the State should be at par, except to supply a casual deficiency or to suppress insurrection, unless there should be inserted in the same bill a provision for the levying of a special tax to pay the interest annually. The General Assembly was also forbidden to lend the credit of the State, except to railroads which were in the process of construction at the time of the ratification of the constitution or to those in which the State had a financial interest, unless the question was submitted to the direct vote of the people. It was also provided that every act levying a tax should state its object and the proceeds could be applied to no other purpose.

The constitution provided for universal suffrage. No one could register without taking an oath to support the Constitution of the United States, and every officer had to take an oath of allegiance to the United States. All persons who denied the being of Almighty God, who had been convicted of treason, perjury or any other infamous crime since becoming citizens of the United States, or who had been convicted of corruption

or malpractice in office and had not been legally restored to the rights of citizenship, were disqualified for holding office. Taking any part in a duel also disqualified for holding any office under the State.

County government was put in the hands of five commissioners in each county elected by the people to exercise a general supervision and control of county affairs. It was also provided that the people of each county should elect a treasurer and a register of deeds. The commissioners were directed to divide the counties into townships, and the people of each township biennially elected two justices of the peace. No counties or other municipal corporations could contract a debt without the consent of a majority of the voters, and all the counties were forbidden to pay any debt contracted to aid in rebellion.

The General Assembly was directed to provide a general system of public schools, and the executive officers of the State were formed into a board of education to succeed to all the powers and duties of the Literary Board. The State University was declared to be forever inseparable from the public school system, and the General Assembly was directed to establish, in connection with the University, departments of agriculture, mechanics, mining and normal instruction.

Provision was made for a homestead exemption of $500, and it was provided that the real and personal property of a married woman should remain her separate estate and property, and in no way liable for the debts of her husband.

Punishments for crime were provided as follows: Death, imprisonment, with or without hard labor, fines, removal from office and disqualification to hold any office under the State. Four crimes were punishable by death: murder, arson, burglary and rape.[84] Provision was made for a penitentiary, and the

[84] Several of the "carpet baggers" opposed the death penalty for rape as being too severe, and because certain Northern States did not have it. Mr. Heaton agreed with the native delegates, who favored it, and made a strong speech in its defence.

General Assembly was directed to provide for the care of orphans, idiots, inebriates, deaf mutes and the insane; and authorized to provide houses of refuge and correction for the punishment and instruction of certain classes of criminals, whenever it might seem necessary.

These were the more important changes. There were others of less interest and importance, but they are far too numerous to mention. A comparison of the two constitutions shows a very wide difference, and brings out very clearly the part played by the Northern members of the convention.

3. Politics and Election of 1868.

Early in January the Conservative executive committee called a State convention of "The Constitutional Union Party" as they styled it. It met on February 6th, about fifty counties being represented. The majority of the delegates were former Whigs, but a large number of Democrats were present. The convention is particularly notable as marking the first re-appearance in politics of many who had been prominent before and during the war. Ex-Governor Graham was made chairman, and among the other officers and delegates were ex-Governors Vance, Bragg and Manly; Judges Manly, Merrimon and Fowle; and Weldon Edwards, W. L. Steele, R. Y. McAden, Marcus Erwin, A. T. Davidson, R. H. Smith and W. N. H. Smith. A State organization was perfected and a series of resolutions, outlining the policy of the party, adopted. They declared devotion to the Federal Constitution; protested against the enforcement of the reconstruction acts as unconstitutional; declared the great political issue in the State to be negro suffrage and equality, if not supremacy, and registered their unqualified opposition to it; declared the determination of the party to protect the negroes in their civil rights and to allow such privileges as were not inconsistent with the welfare of both races; demanded early relief for the impoverished people of the State; expressed gratitude to the

President for his efforts to restore the Union; declared the United States Supreme Court, and not Congress, the legitimate expounder of the Constitution; and expressing their distrust of "the organization controlling Congress," the convention "waived all former party feeling and prejudice" and invited the people of the State to co-operate with the Democratic party, at the same time electing delegates to the Democratic National Convention. Enthusiastic speeches were made by various delegates, among them Vance, who urged activity and fearlessness of the result of opposition to the radicals,[85] saying, "When free speech, a free press and a free ballot are restored, the wrath and indignation of an outraged people will damn them forever. It will be better for them that a mill stone were hanged about their necks and that they were drowned in the depths of the sea." [86] Nominations for State officers were left with the executive committee. This met, later in the month, and nominated a full State ticket.[87] Vance was nominated for governor, but declined, and Thomas S. Ashe was chosen. Mr. Ashe was a Democrat and had been, before the war, several times a member of the General Assembly. He had been a member of the Confederate Congress and had also been elected to the Confederate Senate, but never took his seat. He was of course under disabilities. In the other nominations the old

[85] Mr. Holden had warned the Conservatives that every person who took part in the meeting would be kept forever under disabilities.

[86] Sentinel, February 20, 1868.

[87] The Democratic nominations were as follows: Governor, Z. B. Vance, later, Thos. S. Ashe; Lieutenant-Governor, Edward D. Hall; Secretary of State, Robt. W. Best; Treasurer, K. P. Battle; Auditor, S. W. Burgin; Superintendent of Public Instruction, Braxton Craven; Superintendent of Public Works, S. F. Patterson; Attorney-General, Sion H. Rogers; Supreme Court Justices, R. M. Pearson, W. H. Battle, E. G. Reade, M. E. Manly, and A. S. Merrimon; Superior Court Judges, D. A. Barnes, E. J. Warren, Geo. V. Strong, W. S. Devane, R. P. Buxton, R. B. Gilliam, Thos. Ruffin, Jr., F. E. Shober, W. M. Shipp, Anderson Mitchell, J. L. Bailey, and A. T. Davidson.

Whig influence was evident, and with but few exceptions the nominees had formerly belonged to that party.

The Republican convention met on the same day as the Democratic. As was expected, W. W. Holden was nominated for governor in spite of all efforts to defeat him.[88] The "carpetbaggers" captured the nominations for Secretary of State and Superintendent of Public Instruction. Later, too, A. W. Tourgee was nominated for Judge of the Superior Court, after being defeated for a congressional nomination.[89] The nominations of both parties for judges coincided in several instances.[90]

When the congressional nominations were made the "carpetbaggers" were more prominent. David Heaton, J. R. French and J. T. Deweese were nominated. The last was not the first choice of his district, for James H. Harris was nominated, but, through the influence of Deweese, withdrew and was replaced by Deweese.[91] The other four nominations were given to natives.[92]

[88] B. S. Hedrick introduced a resolution declaring that the convention would nominate no person laboring under disabilities. The convention refused to receive it.

[89] The Republican ticket, as it finally appeared, was as follows: Governor, W. W. Holden; Lieutenant-Governor, Tod R. Caldwell; Secretary of State, H. J. Menninger; Treasurer, D. A. Jenkins; Auditor, Henderson Adams; Superintendent of Public Instruction, S. S. Ashley; Superintendent of Public Works, C. L. Harris; Attorney-General, W. M. Coleman; Justices of the Supreme Court, R. M. Pearson, W. B. Rodman, R. P. Dick, Thomas Settle, and E. G. Reade; Judges of the Superior Court, C. C. Pool, E. W. Jones, C. R. Thomas, D. L. Russell, Jr., R. P. Buxton, S. W. Watts, A. W. Tourgee, G. W. Logan, Anderson Mitchell, and R. H. Cannon.

[90] The Republicans nominated Judge Warren for a different district from that in which he lived and where he had been nominated by the Conservatives. He refused to accept.

[91] A leader in the Republican party at that time assures the writer that, to his personal knowledge, Deweese paid Harris $1,000 to withdraw.

[92] The Congressional nominations were as follows: 1st district, Republican, J. R. French, Democrat, Henry A. Gilliam; 2d, David Heaton,

The canvass was prosecuted with great activity, and apparently with great hopes of success by both parties. The Union League and the Heroes of America were again brought into service. Mr. Holden was at this time president of the former, and James H. Harris was vice-president. W. F. Henderson was at the head of the latter organization. Each issued addresses to their members urging them to continued efforts.[93] The Republicans fought the campaign largely on matters relating to the war which would tend to excite bitter feeling. Vance's proclamations against deserters and his speeches favoring the support of the war were re-published and commented on. A special effort was made to reach the old non-slaveholding class and by arousing class prejudice excite them against the Conservatives. The Conservatives made their fight on the question of ratifying the constitution, which they opposed on many grounds. They argued that it made the negro a political equal and that it was part of an attempt to bring about social equality by its failure to require the separation of the races in the schools and in the militia and by the opening of the University to negroes. They objected to the apportionment of representation among the various counties as being so arranged as to increase the importance of the negro vote. Property, they held, had no representation, and higher taxes were made necessary without any increased benefit to the people. The provision for the election of judges by the people was particularly criticised with reference to the fact that candidates for the Supreme Bench were making a political canvass and entering into general political discussions. The lack of any test of qualification for office was another feature much urged as a reason for the rejection of the constitution.

The Conservatives received an unexpected ally in Daniel R.

Thomas S. Kenan; 3d, O. H. Dockery, T. C. Fuller; 4th, J. T. Deweese, S. T. Williams; 5th, I. G. Lash, D. F. Caldwell; 6th, C. J. Cowles, Nathaniel Boyden; 7th, A. H. Jones, B. S. Gaither.

[93] Standard, February 5, 1868.

Goodloe, so far as concerned opposition to Mr. Holden and the rest of the Republican ticket. When the nominations were made, he said that Mr. Holden's name was "a synonym for whatever is harsh, proscriptive and hateful to nine-tenths of the white people of the State," and declined to support him.[94] Goodloe's paper, the *Register,* while advocating the ratification of the constitution, fought almost the entire Republican ticket. H. H. Helper, who was associated with him, began the publication of a campaign sheet called *"The Holden Record,"* in which he gave selections from the *Standard* which were calculated to show the inconsistency and general unfitness of Mr. Holden for the office of governor. He also advocated the election of Mr. Goodloe as governor.

On account of the great changes in the constitution, the Republicans lost the support of many who might have been counted upon to act with them. B. F. Moore, who had thought the reconstruction acts unconstitutional, but who had been in favor of a convention as the best means of reaching some settlement of disputed questions and because he thought that the constitution needed some amendment, opposed the constitution on account of its radical nature and declined to act with the Republican party.[95] This was the case with many others.

Another political element which to a slight extent played a part in the campaign was the mysterious Ku Klux Klan.

[94] Sentinel, February 29, 1868.

[95] B. F. Moore, in a letter to his daughter, dated March 28, 1868, said: "It is, in my view, with some exceptions, a wretched basis to secure liberty or property. The legislative authority rests upon ignorance without a single check, except Senatorial age, against legislative plunder by exorbitant taxation. * * * The Radical party proposes to fill our Congressional representation with those men recently introduced from other quarters of the United States, and to impose them on us through the instrumentality and league of the ignorance of the State." (2) The writer is inclined to believe that the placards in Wilmington were put up as a joke, as there was no Ku Klux organization there later in the Reconstruction period, when the society had assumed a great importance in other parts of the State.

Many statements in regard to its extent were made by the *Standard,* but it does not appear to have reached the greater part of the State, and had so far assumed very little importance. Nor did it commit any violence. According to the *Standard* the Klan in Warren county indulged in a grim joke as a threat to the negroes. Night after night, in their fantastic costume, they dug graves along the roads which led into Warrenton. But there was no noticeable effect upon the vote in the county, where there was a large negro majority. In Raleigh and Wilmington placards were posted all about the city. Those in the former place were as follows:

"K. K. K.

Attention! First Hour! In the Mist!
At the Flash! Come. Come. Come!!!
Retribution is impatient! The grave yawns!
The sceptre bones rattle!
Let the doomed quake!

It is commanded.
2nd G. C. OF BL. HOST."

The character of the Republican candidates was attacked and attention drawn, often with justice, to their unfitness to represent the people properly, or to perform the duties of the positions to which they aspired. The most striking illustration of the case which the Democrats were able to make against the Republicans was as follows: New Hanover county had three delegates to the convention, General Joseph C. Abbott, A. H. Galloway and S. S. Ashley. The Republican candidates for the Legislature were the two first-mentioned, L. G. Estes, a "carpetbagger," and G. W. Price, a negro. Ashley was candidate for the position of Superintendent of Public Instruction. Of all these none had ever listed or paid any taxes. The assessed value of the real estate in Wilmington at the time was $3,200,000. Of this the white people owned more than thirty-nine fortieths, and were in a minority of over seven hundred.

The white Republicans, about one hundred and fifty in number, who controlled the majority vote, owned, altogether, about $150,000. This was an extreme case, but it shows the possibilities of the conditions existent at the time. The great majority of the whites were disgusted with the experiment of the negro in politics, and many of the Republicans felt almost as keenly as the Democrats the irritating condition of affairs.[96]

As was to be expected, the campagn was exceedingly bitter on both sides. Personal encounters were of frequent occurrence among the candidates, and the most violent personal abuse was common. Mr. Holden was hanged in effigy in several places, including the Capitol Square in Raleigh.

The convention had provided for the submission of the question of ratification of the Constitution to the voters qualified under the reconstruction acts. The State officers were to be chosen by the voters qualified under the new constitution, which meant manhood suffrage. But the voting on ratification of the Constitution and the election of State and county officers took place at the same time, and by order of General Canby on the same ballot. By this piece of partisan politics, all who had been disfranchised by the reconstruction acts were prevented from voting. A new registration had been made and the number registered was increased considerably. The figures were:

Whites	117,428
Blacks	79,444
Total	196,862

[96] The following is illustrative of the workings of the reconstruction acts: "During reconstruction in North Carolina, three ex-governors, a former justice of the Supreme Court, several ex-Congressmen, and a number of other distinguished men were at a dinner together. The only person present who could vote or hold office was the negro who waited on the table." Sentinel, June 9, 1868.

The election was held on April 21st, 22d and 23d, and resulted in a complete Republican victory. The vote on the ratification of the Constitution was—

For Constitution	93,086
Against Constitution	74,016
Not voting	29,774

The vote for Governor was, [97]

Holden	92,235
Ashe	73,594

The Conservatives elected only one member of Congress, one Judge, of those whom the Republicans had not endorsed, and one Solicitor. Of the eighty-nine counties, the Republicans carried fifty-seven. It was conceded that the Republicans polled almost their full strength. Thus it is seen that a large number of Conservatives, qualified to vote, failed to do so. This was, in part, the result of the general belief that, if the Conservatives were successful, Congress would set aside the election, or refuse to remove the disabilities of those Conservatives who were elected to office. And doubtless, such would have been the case.

Fraud was common all over the State. By an amendatory act of Congress, passed March 11th, 1868, voting upon affidavit, instead of registration, was authorized, and ten days was set as the period of required prior residence. This gave room for illegal voting, and, consequently, many voted in different counties on different days.

The Conservatives now directed their energies towards organization for the coming national election, hoping that victory might result, and that the new government might be overthrown. Mr. Holden and the Republican leaders, on the other hand, entered into communication with the Republican leaders in Congress, hoping to hasten the final steps of reconstruction.

[97] The figures are taken from N. C. Legislative Docs., 1868-9.

The State had carried out nearly all of its part of the process; and it remained for Congress to take final action and restore the State to its place in the Union.

As has been seen,[98] the convention placed itself on record in regard to the impeachment of the President. Mr. Holden, also, had taken strong ground for it, stating that "the salvation of the South depends on the conviction of Andrew Johnson."[99] He now, in the hope of securing the immediate admission of the representatives from the State, telegraphed various Northern papers, urging the displacement of the President, and stating that war would begin again in North Carolina, if the President should be acquitted before the State was admitted to representation in Congress and the new State government was installed. One of the telegrams was, in part, as follows:

"Prompt action on the part of Congress, in relation to the administration of North Carolina, will be our only hope to avert a terrible civil war again, in the event that the usurper in the White House shall be acquitted. In the name of humanity, liberty, and justice, can it be possible that Andrew Johnson will be acquitted?

W. W. Holden." [100]

4. The Completion of Reconstruction.

Although the constitution had been ratified and officers elected under it, the approval of Congress had not been given to it, nor had consent been given to put the new government into operation. In addition, a majority of the newly-elected State and county officers and of the members of the legislature were under disabilities. Besides the disabilities which were based upon the proposed Fourteenth Amendment, there was also the requirement that all State officers installed prior to the formal restoration of the State should take the "iron-clad" oath. General Canby announced this with the publication of

[98] See page 243, preceding.

[99] Standard, April 15, 1868.

[100] Quoted in Sentinel, May 20, 1868.

the election returns. This caused consternation among the "loyal," and Congress was looked to for relief. But Congress, for a considerable time failed to act. Finally an act was passed, which, after declaring their constitutions republican in form, provided that representatives from six Southern States, including North Carolina, should be admitted, whenever the proposed Fourteenth Amendment had been ratified by their legislatures. Their admission was also upon the condition that the constitution of none of them should ever be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote in the State, who were entitled to vote under the constitution then recognized, except as a punishment for crimes then felonious at common law, of which they had been duly convicted.[101] This bill was vetoed by the President, on the ground that his approval of it would imply approval of the reconstruction acts. It was then passed over his veto and became a law. This was construed by General Canby to remove the necessity for the taking of the test oath by the new administration, and he so notified the governor-elect, and later issued an order to that effect.[102]

The same day that the bill admitting representatives from North Carolina became a law, the disabilities of nearly seven hundred persons, the majority of whom had been recommended by the State convention, were removed. With very few exceptions, the list contained the names of Republicans only.[103] This enabled the State government to be organized. By the act admitting representatives, the governor-elect was authorized to summon the legislature to meet, and on June 25th, before it became a law by passage over the President's veto, Governor-elect Holden issued a proclamation summoning the General Assembly to meet on July 1st.[104] On June 29th, Gen-

[101] Act of June 25, 1868. [102] Sentinel, June 27, 1868.

[103] The convention refused to recommend B. F. Moore, among others. His name, however, was added while the list was before Congress.

[104] Standard, June 17, 1868.

eral Canby instructed the chief justice-elect to take the oaths of office before a United States commissioner, and then to administer them to his associates and to the State officers. Chief Justice Pearson notified Governor Worth that he would administer the oaths to the governor on July 1st. The same day, Governor Worth was removed from office by a military order from General Canby. The oaths were administered to Governor Holden the next day, and Governor Worth surrendered the office with the following protest:

"STATE OF NORTH CAROLINA,
EXECUTIVE DEPARTMENT,
RALEIGH, July 1, 1868

Gov. W. W. HOLDEN, *Raleigh, N. C.*

SIR:—Yesterday morning I was verbally notified by Chief Justice Pearson that, in obedience to a telegram from General Canby, he would, to-day at ten o'clock A. M., administer to you the oaths required preliminary to your entering upon the discharge of the duties of Civil Governor of the State, and that, thereupon, you would demand my office.

I intimated to the Judge my opinion that such proceeding was premature, even under the reconstruction legislation of Congress, and that I should probably decline to surrender the office to you. At sundown yesterday evening, I received from Colonel Williams, Commandant of this Military Post, an extract from General Orders, No. 12, of General Canby, as follows:

'HEADQUARTERS SECOND MILITARY DISTRICT,
CHARLESTON, S. C., June 30, 1868.

GENERAL ORDERS, No. 12.

(*Extract.*)

To facilitate the organization of the new State government, the following appointments are made: To be Governor of North Carolina, W. W. Holden, Governor-elect, vice Jonathan Worth, removed. To be Lieutenant-Governor of North Carolina, Tod R. Caldwell. Original vacancy. To take effect July 1st on the meeting of the General Assembly of North Carolina.'

I do not recognize the validity of the late election, under which you and those co-operating with you claim to be invested with the civil government of the State.

You have no evidence of your election, save the certificate of a major-general of the United States Army. I regard all of you as in effect appointees of the military power of the United States, and not as deriving your powers from the consent of those you claim to govern.

Knowing, however, that you are backed by military force here, which I could not resist, if I would, I do not deem it necessary to offer a futile opposition, but vacate the office without the ceremony of actual eviction, offering no further opposition than this my protest.

I would submit to actual expulsion in order to bring before the Supreme Court of the United States the question as to the constitutionality of the legislation under which you claim to be the rightful governor of the State, if the past action of that tribunal furnished any hope of a speedy trial.

I surrender the office to you under what I deem military duress, without stopping, as the occasion would well justify, to comment upon the singular coincidence that the present State government is surrendered as without legality to him whose own official sanction, but three years ago, proclaimed it valid.

I am, very respectfully,

JONATHAN WORTH,
Governor of North Carolina."[105]

Governor Holden delivered his inaugural address, on July 4th, to an enormous audience, composed, for the most part, of negroes. He reviewed the new constitution, and declared that the government established under it must be administered, in every department, by the friends of reconstruction. He declared his opposition to mixed schools and urged a development of public education for both races. He promised the colored voters that the ballot would never be taken from them, and threatened confiscation, if an attempt should be made to do so. Speaking of negro suffrage, he said: "The repugnance to it, which exists among many of our people, will gradually subside when they shall be convinced by actual expe-

[105] Executive Letters, Worth, Vol. II, p. 17. Gov. Worth continued to reside in Raleigh until his death, in September, 1869.

rience that none of the evils they anticipated have resulted from it." As a whole, the address gave a better promise for the future than was expected, and far better than was fulfilled.

In the meantime, the legislature met and, on July 2d, ratified the Fourteenth Amendment.[106] General Canby was notified of the fact, and immediately ordered military interference with civil functions to cease. On July 6th, three of the members-elect of Congress from North Carolina were sworn in, and within a few days, two more were admitted. Two were unable to take the "iron-clad" oath,[107] and were compelled to wait until the adoption of the substitute for the benefit of those from whom disabilities had been removed.[108] On July 11th, a proclamation by President Johnson announced that North Carolina had fulfilled the requirements of Congress. In the meantime, John Pool and J. C. Abbott had been elected to the Senate, and were sworn in on the 13th. By July 20th, the representation of the State was complete. North Carolina was thus restored to her place in the Union and, legally, reconstruction was at an end. But from a social and economic standpoint, or from an internal political standpoint, it now began.

[106] The vote on the ratification of the Fourteenth Amendment was: Senate, 34 yeas, 2 nays. House, 82 yeas, 19 nays.

[107] Nathaniel Boyden and O. H. Dockery.

[108] Laws, 40th Cong., 2d Sess., Chap. 139.

VITA.

Joseph Grégoire de Roulhac Hamilton was born at Hillsboro, North Carolina, on August 6, 1878. He was a student at the University of the South from 1896 to 1900, and in the latter year received the degree of Master of Arts. For the academic year 1901-2, he was instructor in Greek in the Horner Military School, Oxford, N. C. He was a student in the Faculty of Political Science of Columbia University from 1902 to 1904, and a candidate for the degree of Doctor of Philosophy. From 1904 to 1906, he was Principal of the Wilmington High School, Wilmington, N. C. He is Associate Professor elect of History in the University of North Carolina.